

ASSEMBLY BILL NO. 206—COMMITTEE ON
HEALTH AND HUMAN SERVICES

FEBRUARY 19, 2009

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to public health.
(BDR 40-858)

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

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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 public health; revising provisions relating to reports of sentinel events and patient safety by medical facilities; authorizing health authorities to conduct investigations of cases or suspected cases of an infectious disease or exposure to biological, radiological or chemical agents and to issue cease and desist orders relating to those investigations; authorizing the Health Division of the Department of Health and Human Services to take control of certain medical records under certain circumstances; revising provisions relating to the licensure and discipline of certain medical facilities and facilities for the dependent; requiring the Director of the Office of Consumer Health Assistance to assist consumers in filing certain complaints; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires medical facilities to report certain sentinel events to the
2 Health Division of the Department of Health and Human Services. (NRS 439.800-
3 439.890) **Section 2** of this bill requires medical facilities to prepare an annual
4 summary of sentinel events and requires the Health Division to annually report to
5 the State Board of Health concerning those summary reports. **Section 3** of this bill
6 authorizes the Health Division to, upon receipt of a report of a sentinel event by a
7 medical facility, request additional information, conduct an audit or conduct an
8 investigation of the facility. **Section 9** of this bill authorizes the imposition of an
9 administrative sanction to a medical facility that fails to submit a report of a
10 sentinel event, does not have a patient safety plan or does not have a patient safety
11 committee as required by law. (NRS 439.835, 439.865, 439.875, 439.885) **Section**



12 **10** of this bill changes the authority to adopt regulations relating to reports of
13 sentinel events from the Administrator of the Health Division to the State Board of
14 Health. (NRS 439.890)

15 Existing law establishes the office of the State Health Officer and establishes
16 county, district and city boards of health. (NRS 439.090-439.130, 439.280-
17 439.470) Existing law further prescribes the duties and responsibilities of those
18 health authorities, including the prevention and control of nuisances, regulation of
19 sanitation, protection of the public health and investigation of certain
20 communicable diseases. (Chapters 439 and 441A of NRS) **Sections 13-17** of this
21 bill authorize health authorities to: (1) conduct investigations concerning infectious
22 diseases or exposure to biological, radiological or chemical agents which
23 significantly impair the health, safety or welfare of the public; (2) petition the court
24 for a subpoena to compel the production of information relevant to those
25 investigations; and (3) issue cease and desist orders against a provider of health
26 care or medical facility subject to such an investigation.

27 **Section 21** of this bill provides that if the Health Division suspends the license
28 of a medical facility or facility for the dependent, the Health Division may take
29 control of certain medical records of the facility and requires the State Board of
30 Health to adopt regulations to pay for the services of a contractor to oversee the
31 seizure and control of such records.

32 Existing law prohibits a medical facility, physician or osteopathic physician
33 from retaliating or discriminating against an employee who reports information
34 concerning the conduct of a physician or osteopathic physician to the Board of
35 Medical Examiners or the State Board of Osteopathic Medicine, reports a sentinel
36 event to the Health Division of the Department of Health and Human Services or
37 cooperates or participates in an investigation or proceeding conducted by the Board
38 of Medical Examiners, the State Board of Osteopathic Medicine or another
39 governmental entity concerning the conduct or sentinel event. Existing law also
40 prohibits such retaliation or discrimination against a registered nurse, licensed
41 practical nurse or nursing assistant who refuses to provide nursing services that he
42 does not have the knowledge, skill or experience to provide. (NRS 449.205)

43 **Section 22** of this bill requires a medical facility to prepare and post a written
44 notice for the employees of the medical facility and the nurses and nursing
45 assistants who contract with the medical facility regarding these protections from
46 retaliation and discrimination and the process for making a report.

47 **Section 23** of this bill amends existing provisions governing administrative
48 sanctions against a medical facility or facility for the dependent which violates
49 applicable laws and regulations by authorizing the Health Division to impose
50 sanctions at a rate of not less than \$1,000 and not more than \$10,000 for each
51 patient who was harmed or at risk of harm as a result of the violation.
52 (NRS 449.163)

53 Existing law authorizes the Health Division to immediately suspend the license
54 of a medical facility, facility for the dependent or other licensed facility if the
55 public health, safety or welfare imperatively requires such suspension. (NRS
56 233B.127, 449.170) **Section 24** of this bill amends existing law to specifically
57 reference summary suspensions issued pursuant to NRS 233B.127. (NRS 449.170)

58 Existing law requires the Health Division to provide a copy of the results of
59 certain inspections of certain medical facilities to any person who requests a copy
60 of the report. **Section 25** of this bill requires the Health Division to complete a
61 report of each investigation and to include in the report any recommendations of a
62 health authority that also conducted an investigation of the facility. (NRS 449.200)

63 **Section 26** of this bill amends the duties of the Director of the Office for
64 Consumer Health Assistance to require the Director to provide assistance to
65 consumers who wish to file a complaint against a health care facility or a health
66 care professional. (NRS 223.560)



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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth in sections 2 and 3 of this act.

Sec. 2. 1. *On or before March 1 of each year, each medical facility shall provide to the Health Division, in the form prescribed by the State Board of Health, a summary of the reports submitted by the medical facility pursuant to NRS 439.835 during the immediately preceding calendar year. The summary must include, without limitation:*

(a) The total number and types of sentinel events reported by the medical facility, if any;

(b) A copy of the patient safety plan established pursuant to NRS 439.865;

(c) A summary of the membership and activities of the patient safety committee established pursuant to NRS 439.875; and

(d) Any other information required by the State Board of Health concerning the reports submitted by the medical facility pursuant to NRS 439.835.

2. *On or before June 1 of each year, the Health Division shall submit to the State Board of Health an annual summary of the reports and information received by the Health Division pursuant to this section. The annual summary must include, without limitation, a compilation of the information submitted pursuant to subsection 1 and any other pertinent information deemed necessary by the State Board of Health concerning the reports submitted by the medical facility pursuant to NRS 439.835. The Health Division shall maintain the confidentiality of the reports submitted pursuant to NRS 439.835 and any other information requested by the State Board of Health concerning those reports when preparing the annual summary pursuant to this section.*

Sec. 3. 1. *Upon receipt of a report pursuant to NRS 439.835, the Health Division may, as often as deemed necessary by the Administrator to protect the health and safety of the public, request additional information regarding the sentinel event or conduct an audit or investigation of the medical facility.*

2. *A medical facility shall provide to the Health Division any information requested in furtherance of a request for information, an audit or an investigation pursuant to this section.*

3. *If the Health Division conducts an audit or investigation pursuant to this section, the Health Division shall, within 30 days*



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1 *after completing such an audit or investigation, report its findings*
2 *to the State Board of Health.*

3 *4. A medical facility which is audited or investigated pursuant*
4 *to this section shall pay to the Health Division the actual cost of*
5 *conducting the audit or investigation.*

6 **Sec. 4.** NRS 439.565 is hereby amended to read as follows:

7 439.565 1. Any person, corporation, firm, partnership, joint
8 stock company, or any other association or organization which
9 violates or proposes to violate this chapter, provisions of law
10 requiring the immunization of children in public schools, private
11 schools and child care facilities, any regulation of the State Board of
12 Health or any regulation of a county, district or city board of health
13 approved by the State Board of Health pursuant to this chapter may
14 be enjoined by any court of competent jurisdiction.

15 2. Actions for injunction under this section may be prosecuted
16 by the Attorney General, any district attorney in this State or any
17 retained counsel of any local board of health in the name and upon
18 the complaint of the State Board of Health or any local board of
19 health, or upon the complaint of the State Health Officer or of any
20 local health officer or his deputy.

21 *3. A court may issue a permanent or temporary injunction,*
22 *restraining order or other appropriate order pursuant to this*
23 *section.*

24 **Sec. 5.** NRS 439.800 is hereby amended to read as follows:

25 439.800 As used in NRS 439.800 to 439.890, inclusive, *and*
26 *sections 2 and 3 of this act*, unless the context otherwise requires,
27 the words and terms defined in NRS 439.802 to 439.830, inclusive,
28 have the meanings ascribed to them in those sections.

29 **Sec. 6.** NRS 439.802 is hereby amended to read as follows:

30 439.802 "Facility-acquired infection" means a localized or
31 systemic condition which results from an adverse reaction to the
32 presence of an infectious agent or its toxins and which was not
33 detected as present or incubating at the time a patient was admitted
34 to a medical facility, including, without limitation:

- 35 1. Surgical site infections;
- 36 2. Ventilator-associated pneumonia;
- 37 3. Central line-related bloodstream infections;
- 38 4. Urinary tract infections; and
- 39 5. Other categories of infections as may be established by the

40 ~~[Administrator]~~ *State Board of Health* by regulation pursuant to
41 NRS 439.890.

42 **Sec. 7.** NRS 439.835 is hereby amended to read as follows:

43 439.835 1. Except as otherwise provided in subsection 2:

44 (a) A person who is employed by a medical facility shall, within
45 24 hours after becoming aware of a sentinel event that occurred at



1 the medical facility, notify the patient safety officer of the facility of
2 the sentinel event; and

3 (b) The patient safety officer shall, within 13 days after
4 receiving notification pursuant to paragraph (a), report the date, the
5 time and a brief description of the sentinel event to:

6 (1) The Health Division; and

7 (2) The representative designated pursuant to NRS 439.855,
8 if that person is different from the patient safety officer.

9 2. If the patient safety officer of a medical facility personally
10 discovers or becomes aware, in the absence of notification by
11 another employee, of a sentinel event that occurred at the medical
12 facility, the patient safety officer shall, within 14 days after
13 discovering or becoming aware of the sentinel event, report the date,
14 time and brief description of the sentinel event to:

15 (a) The Health Division; and

16 (b) The representative designated pursuant to NRS 439.855, if
17 that person is different from the patient safety officer.

18 3. The ~~[Administrator]~~ *State Board of Health* shall prescribe
19 the manner in which reports of sentinel events must be made
20 pursuant to this section.

21 **Sec. 8.** NRS 439.840 is hereby amended to read as follows:

22 439.840 1. The Health Division shall, to the extent of
23 legislative appropriation and authorization:

24 (a) Collect and maintain reports received pursuant to NRS
25 439.835 ~~[H]~~ *and section 2 of this act and any additional*
26 *information requested by the Health Division pursuant to section*
27 *3 of this act;* and

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

31 2. Except as otherwise provided in NRS 239.0115, reports
32 received pursuant to NRS 439.835 *and subsection 1 of section 2 of*
33 *this act and any additional information requested by the Health*
34 *Division pursuant to section 3 of this act* are confidential, not
35 subject to subpoena or discovery and not subject to inspection by the
36 general public.

37 **Sec. 9.** NRS 439.885 is hereby amended to read as follows:

38 439.885 1. If a medical facility:

39 ~~[H]~~ (a) Commits a violation of any provision of NRS 439.800
40 to 439.890, inclusive, *and sections 2 and 3 of this act* or for any
41 violation for which an administrative sanction pursuant to NRS
42 449.163 would otherwise be applicable; and

43 ~~[2-]~~ (b) Of its own volition, reports the violation to the
44 Administrator,



1 ↪ such a violation must not be used as the basis for imposing an
2 administrative sanction pursuant to NRS 449.163.

3 2. *If a medical facility commits a violation of any provision of*
4 *NRS 439.800 to 439.890, inclusive, and sections 2 and 3 of this act*
5 *and does not, of its own volition, report the violation to the*
6 *Administrator, the Health Division may, in accordance with the*
7 *provisions of subsection 3, impose an administrative sanction:*

8 (a) *For failure to report a sentinel event, in an amount not to*
9 *exceed \$100 per day for each day after the date on which the*
10 *sentinel event was required to be reported pursuant to*
11 *NRS 439.835;*

12 (b) *For failure to adopt and implement a patient safety plan*
13 *pursuant to NRS 439.865, in an amount not to exceed \$1,000 for*
14 *each month in which a patient safety plan was not in effect; and*

15 (c) *For failure to establish a patient safety committee or failure*
16 *of such a committee to meet pursuant to the requirements of NRS*
17 *439.875, in an amount not to exceed \$2,000 for each violation of*
18 *that section.*

19 3. *Before the Health Division imposes an administrative*
20 *sanction pursuant to subsection 2, the Health Division shall*
21 *provide the medical facility with reasonable notice. The notice*
22 *must contain the legal authority, jurisdiction and reasons for the*
23 *action to be taken. If a medical facility wants to contest the action,*
24 *the facility may file an appeal pursuant to the regulations of the*
25 *State Board of Health adopted pursuant to NRS 449.165 and*
26 *449.170. Upon receiving notice of an appeal, the Health Division*
27 *shall hold a hearing in accordance with those regulations.*

28 4. *An administrative sanction collected pursuant to this*
29 *section must be accounted for separately and used by the Health*
30 *Division to provide training and education to employees of the*
31 *Health Division, employees of medical facilities and members of*
32 *the general public regarding issues relating to the provision of*
33 *quality and safe health care.*

34 **Sec. 10.** NRS 439.890 is hereby amended to read as follows:

35 439.890 The ~~[Administrator]~~ *State Board of Health* shall
36 adopt such regulations as the ~~[Administrator]~~ *the Board* determines
37 to be necessary or advisable to carry out the provisions of NRS
38 439.800 to 439.890, inclusive ~~[]~~, *and sections 2 and 3 of this act.*

39 **Sec. 11.** Chapter 441A of NRS is hereby amended by adding
40 thereto the provisions set forth as sections 12 to 17, inclusive, of this
41 act.

42 **Sec. 12.** *“Infectious disease” means a disease which is*
43 *caused by pathogenic microorganisms, including, without*
44 *limitation, bacteria, viruses, parasites or fungi, which spread,*



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1 *either directly or indirectly, from one person to another. The term*
2 *includes a communicable disease.*

3 **Sec. 13. 1.** *Except as otherwise required pursuant to NRS*
4 *441A.160, a health authority may conduct an investigation of a*
5 *case or suspected case of:*

6 *(a) An infectious disease within its jurisdiction; or*

7 *(b) Exposure to a biological, radiological or chemical agent*
8 *within its jurisdiction,*

9 *↳ which significantly impairs the health, safety or welfare of the*
10 *public within its jurisdiction.*

11 **2.** *Each health authority shall:*

12 *(a) Except as otherwise required pursuant to NRS 441A.170,*
13 *report each week to the State Health Officer the number and types*
14 *of cases or suspected cases of infectious diseases or cases or*
15 *suspected cases of exposure to biological, radiological or chemical*
16 *agents which significantly impair the health, safety or welfare of*
17 *the public reported to the health authority, and any other*
18 *information required by the regulations of the Board.*

19 *(b) Report the results of an investigation conducted pursuant*
20 *to subsection 1 to the State Health Officer within 30 days after*
21 *concluding the investigation.*

22 **3.** *The Board may adopt regulations to carry out the*
23 *provisions of sections 13 to 17, inclusive, of this act.*

24 **Sec. 14. 1.** *A health authority which conducts an*
25 *investigation pursuant to NRS 441A.160 or section 13 of this act*
26 *shall, for the protection of the health, safety and welfare of the*
27 *public, have access to all medical records, laboratory records and*
28 *reports, books and papers relevant to the investigation which are*
29 *in the possession of a provider of health care or medical facility*
30 *being investigated or which are otherwise necessary to carry out*
31 *the investigation. The determination of what information is*
32 *necessary to carry out the investigation is at the discretion of the*
33 *health authority.*

34 **2.** *If a health authority conducts an investigation pursuant to*
35 *NRS 441A.160 or section 13 of this act, the health authority may*
36 *require a provider of health care or medical facility being*
37 *investigated to pay a proportionate share of the actual cost of*
38 *carrying out the investigation, including, without limitation, the*
39 *cost of notifying and testing patients who may have contracted an*
40 *infectious disease, been exposed to a biological, radiological or*
41 *chemical agent or otherwise been harmed.*

42 **Sec. 15. 1.** *Upon petition by a health authority to the*
43 *district court for the county in which an investigation is being*
44 *conducted by the health authority pursuant to NRS 441A.160 or*
45 *section 13 of this act, the court may issue a subpoena to compel*



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1 *the production of medical records, laboratory records and reports,*
2 *books and papers as set forth in section 14 of this act.*

3 2. *If a witness refuses to produce any medical records,*
4 *laboratory records and reports, books or papers required by a*
5 *subpoena issued by a court pursuant to subsection 1, the court*
6 *shall enter an order directing the witness to appear before the*
7 *court at a time and place to be fixed by the court in its order, the*
8 *time to be not more than 10 days after the date of the order, and*
9 *then and there show cause why he has not produced the medical*
10 *records, laboratory records and reports, books or papers before the*
11 *health authority. A certified copy of the order must be served upon*
12 *the witness. The court may enter an order that the witness appear*
13 *before the health authority at the time and place fixed in the order*
14 *and produce the required medical records, laboratory records and*
15 *reports, books or papers, and upon failure to obey the order, the*
16 *witness must be dealt with as for contempt of court.*

17 **Sec. 16.** 1. *A public agency, law enforcement agency or*
18 *political subdivision of this State which has information that is*
19 *relevant to an investigation relating to an infectious disease or*
20 *exposure to a biological, radiological or chemical agent which*
21 *significantly impairs the health, safety and welfare of the public*
22 *shall share the information and any medical records and reports*
23 *with the appropriate state and local health authorities if it is in the*
24 *best interest of the public and as necessary to further the*
25 *investigation of the requesting health authority.*

26 2. *The Board shall adopt regulations to carry out this section,*
27 *including, without limitation:*

28 (a) *Identifying the public agencies and political subdivisions*
29 *with which the information set forth in subsection 1 may be*
30 *shared;*

31 (b) *Prescribing the circumstances and procedures by which the*
32 *information may be shared with those identified public agencies*
33 *and political subdivisions; and*

34 (c) *Ensuring the confidentiality of the information if it is*
35 *protected health information.*

36 **Sec. 17.** 1. *During the course of or as a result of an*
37 *investigation concerning the case or suspected case of an*
38 *infectious disease or the case or suspected case of exposure to a*
39 *biological, radiological or chemical agent pursuant to NRS*
40 *441A.160 or section 13 of this act, a health authority may, upon*
41 *finding that a provider of health care or medical facility*
42 *significantly contributed to a case of an infectious disease or to a*
43 *case of exposure to a biological, radiological or chemical agent*
44 *and that the public health imperatively requires:*



1 (a) *Issue a written order directing the provider of health care*
2 *or medical facility to cease and desist any act or conduct which is*
3 *harmful to the health, safety or welfare of the public; and*

4 (b) *Take any other action to reduce or eliminate the harm to*
5 *the health, safety or welfare of the public.*

6 2. *A written order directing a provider of health care or*
7 *medical facility to cease and desist issued pursuant to subsection 1*
8 *must contain a statement of the:*

9 (a) *Provision of law or regulation which the provider of health*
10 *care or medical facility is violating; or*

11 (b) *Standard of care that the provider of health care or*
12 *medical facility is violating which led to the case of the infectious*
13 *disease or to the case of exposure to a biological, radiological or*
14 *chemical agent.*

15 3. *An order to cease and desist must be served upon the*
16 *person or an authorized representative of the facility directly or by*
17 *certified or registered mail, return receipt requested. The order*
18 *becomes effective upon service.*

19 4. *An order to cease and desist expires 30 days after the date*
20 *of service unless the health authority institutes an action in a*
21 *court of competent jurisdiction seeking an injunction.*

22 5. *Upon a showing by the health authority that a provider of*
23 *health care or medical facility is committing or is about to commit*
24 *an act which is harmful to the health, safety or welfare of the*
25 *public, a court of competent jurisdiction may enjoin the provider*
26 *of health care or medical facility from committing the act.*

27 **Sec. 18.** NRS 441A.010 is hereby amended to read as follows:

28 441A.010 As used in this chapter, unless the context otherwise
29 requires, the words and terms defined in NRS 441A.020 to
30 441A.115, inclusive, *and section 12 of this act* have the meanings
31 ascribed to them in those sections.

32 **Sec. 19.** NRS 441A.130 is hereby amended to read as follows:

33 441A.130 The State Health Officer shall inform each local
34 health officer of the regulations adopted by the Board and the
35 procedures established for investigating and reporting cases or
36 suspected cases of ~~[communicable]~~ *infectious* diseases ~~[.]~~ *and cases*
37 *or suspected cases of exposure to biological, radiological or*
38 *chemical agents pursuant to this chapter.*

39 **Sec. 20.** Chapter 449 of NRS is hereby amended by adding
40 thereto the provisions set forth in sections 21 and 22 of this act.

41 **Sec. 21.** 1. *If the Health Division suspends the license of a*
42 *medical facility or a facility for the dependent pursuant to the*
43 *provisions of this chapter, or if a facility otherwise ceases to*
44 *operate, including, without limitation, pursuant to an action or*
45 *order of a health authority pursuant to chapter 441A of NRS, the*



1 *Health Division may, if deemed necessary by the Administrator of*
2 *the Health Division, take control of and ensure the safety of the*
3 *medical records of the facility.*

4 *2. Subject to the provisions of the Health Insurance*
5 *Portability and Accountability Act of 1996, Public Law 104-191,*
6 *the Health Division shall:*

7 *(a) Maintain the confidentiality of the medical records*
8 *obtained pursuant to subsection 1.*

9 *(b) Share medical records obtained pursuant to subsection 1*
10 *with law enforcement agencies in this State and other*
11 *governmental entities which have authority to license the facility*
12 *or to license the owners or employees of the facility.*

13 *(c) Release a medical record obtained pursuant to subsection 1*
14 *to the patient or legal guardian of the patient who is the subject of*
15 *the medical record.*

16 *3. The State Board of Health shall adopt regulations to carry*
17 *out the provisions of this section, including, without limitation,*
18 *regulations for contracting with a person to maintain any medical*
19 *records under the control of the Health Division pursuant to*
20 *subsection 1 and for payment by the facility of the cost of*
21 *maintaining medical records.*


22 **Sec. 22.** *1. A medical facility shall prepare a written notice*
23 *for the employees of the medical facility and for the nurses and*
24 *nursing assistants who contract with the medical facility regarding*
25 *the protections provided for actions taken pursuant to subsection 1*
26 *of NRS 449.205 and the legal remedy provided pursuant to NRS*
27 *449.207. The notice must include the process by which an*
28 *employee, nurse or nursing assistant may make a report pursuant*
29 *to subsection 1 of NRS 449.205.*

30 *2. A medical facility shall:*

31 *(a) Post in one or more conspicuous places at the medical*
32 *facility the notice prepared pursuant to subsection 1; and*

33 *(b) Include the text of the written notice in any manual or*
34 *handbook that the medical facility provides to employees and*
35 *nurses and nursing assistants who contract with the medical*
36 *facility concerning employment practices at the medical facility.*

37 **Sec. 23.** *NRS 449.163 is hereby amended to read as follows:*

38 *449.163 1. If a medical facility or facility for the dependent*
39 *violates any provision related to its licensure, including any*
40 *provision of NRS 439B.410  or 449.001 to 449.240, inclusive,*
41 *and section 21 of this act, or any condition, standard or regulation*
42 *adopted by the Board, the Health Division in accordance with the*
43 *regulations adopted pursuant to NRS 449.165 may:*

44 *(a) Prohibit the facility from admitting any patient until it*
45 *determines that the facility has corrected the violation;*



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(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;

(c) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and

(d) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. *If a violation by a medical facility or facility for the dependent relates to the health or safety of a patient, an administrative penalty imposed pursuant to paragraph (c) of subsection 1 must be in a total amount of not less than \$1,000 and not more than \$10,000 for each patient who was harmed or at risk of harm as a result of the violation.*

3. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (c) of subsection 1, the Health Division may:

(a) Suspend the license of the facility until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

~~[3-]~~ 4. The Health Division may require any facility that violates any provision of NRS 439B.410 ~~[4]~~ or 449.001 to 449.240, inclusive, *and section 21 of this act*, or any condition, standard or regulation adopted by the Board, to make any improvements necessary to correct the violation.

~~[4-]~~ 5. Any money collected as administrative penalties pursuant to this section must be accounted for separately and used to protect the health or property of the residents of the facility in accordance with applicable federal standards.

Sec. 24. NRS 449.170 is hereby amended to read as follows:

449.170 1. When the Health Division intends to deny, suspend or revoke a license, or impose any sanction prescribed by NRS 449.163, it shall give reasonable notice to all parties by certified mail. The notice must contain the legal authority, jurisdiction and reasons for the action to be taken. Notice is not required if the Health Division finds that the public health requires immediate action. In that case, it may order a summary suspension of a license *pursuant to this section and NRS 233B.127* or impose



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1 any sanction prescribed by NRS 449.163, pending proceedings for
2 revocation or other action.

3 2. If a person wants to contest the action of the Health
4 Division, he must file an appeal pursuant to regulations adopted by
5 the Board.

6 3. Upon receiving notice of an appeal, the Health Division
7 shall hold a hearing pursuant to regulations adopted by the Board.

8 4. The Board shall adopt such regulations as are necessary to
9 carry out the provisions of this section.

10 **Sec. 25.** NRS 449.200 is hereby amended to read as follows:

11 449.200 The Health Division shall ~~[, upon]~~ :

12 *1. Prepare a report of the results of its inspections of medical*
13 *facilities and facilities for the dependent regarding compliance*
14 *with applicable regulations and standards. The report must be*
15 *provided to the facility and include, without limitation, a*
16 *recommendation of the Health Division for correcting any*
17 *deficiencies and, if a deficiency is discovered as a result of an*
18 *investigation by a county, district or city board of health or health*
19 *officer, the recommendations of the board or health officer.*

20 *2. Upon* request, disclose to any person or governmental entity
21 the results of its inspections of facilities for skilled nursing, facilities
22 for intermediate care and residential facilities for groups regarding
23 their compliance with applicable regulations and standards.

24 **Sec. 26.** NRS 223.560 is hereby amended to read as follows:

25 223.560 The Director shall:

26 1. Respond to written and telephonic inquiries received from
27 consumers and injured employees regarding concerns and problems
28 related to health care and workers' compensation;

29 2. Assist consumers and injured employees in understanding
30 their rights and responsibilities under health care plans, including,
31 without limitation, the Public Employees' Benefits Program, and
32 policies of industrial insurance;

33 3. Identify and investigate complaints of consumers and
34 injured employees regarding their health care plans, including,
35 without limitation, the Public Employees' Benefits Program, and
36 policies of industrial insurance and assist those consumers and
37 injured employees to resolve their complaints, including, without
38 limitation:

39 (a) Referring consumers and injured employees to the
40 appropriate agency, department or other entity that is responsible for
41 addressing the specific complaint of the consumer or injured
42 employee; and

43 (b) Providing counseling and assistance to consumers and
44 injured employees concerning health care plans, including, without



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1 limitation, the Public Employees' Benefits Program, and policies of
2 industrial insurance;

3 4. Provide information to consumers and injured employees
4 concerning health care plans, including, without limitation, the
5 Public Employees' Benefits Program, and policies of industrial
6 insurance in this State;

7 5. Establish and maintain a system to collect and maintain
8 information pertaining to the written and telephonic inquiries
9 received by the Office for Consumer Health Assistance;

10 6. Take such actions as are necessary to ensure public
11 awareness of the existence and purpose of the services provided by
12 the Director pursuant to this section;

13 7. In appropriate cases and pursuant to the direction of the
14 Governor, refer a complaint or the results of an investigation to the
15 Attorney General for further action;

16 8. Provide information to and applications for prescription drug
17 programs for consumers without insurance coverage for prescription
18 drugs or pharmaceutical services; ~~and~~

19 9. Establish and maintain an Internet website which includes:

20 (a) Information concerning purchasing prescription drugs from
21 Canadian pharmacies that have been recommended by the State
22 Board of Pharmacy for inclusion on the Internet website pursuant to
23 subsection 4 of NRS 639.2328;

24 (b) Links to websites of Canadian pharmacies which have been
25 recommended by the State Board of Pharmacy for inclusion on the
26 Internet website pursuant to subsection 4 of NRS 639.2328; and

27 (c) A link to the website established and maintained pursuant to
28 NRS 439A.270 which provides information to the general public
29 concerning the charges imposed and the quality of the services
30 provided by the hospitals and surgical centers for ambulatory
31 patients in this State ~~and~~; and

32 *10. Assist consumers with filing complaints against health*
33 *care facilities and health care professionals. As used in this*
34 *subsection, "health care facility" has the meaning ascribed to it in*
35 *NRS 449.800.*

36 **Sec. 27.** NRS 630.30665 is hereby amended to read as
37 follows:

38 630.30665 1. The Board shall require each holder of a license
39 to practice medicine to submit annually to the Board, on a form
40 provided by the Board, a report stating the number and type of
41 surgeries requiring conscious sedation, deep sedation or general
42 anesthesia performed by the holder of the license at his office or any
43 other facility, excluding any surgical care performed:

44 (a) At a medical facility as that term is defined in NRS
45 449.0151; or



(b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice medicine to submit a report annually to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the ~~Administrator of the Health Division of the Department of Health and Human Services~~ *State Board of Health* for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice medicine shall submit the report required pursuant to subsections 1 and 2 whether or not he performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to subsection 8 of NRS 630.306.

4. The Board shall:

(a) Collect and maintain reports received pursuant to subsections 1 and 2; 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.

5. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1 or 2 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

6. 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.

7. In addition to any other remedy or penalty, if a holder of a license to practice medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice medicine with notice and opportunity for a hearing, impose against the holder of a license to practice medicine an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license pursuant to this subsection. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.



8. 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. 28. NRS 633.524 is hereby amended to read as follows:

633.524 1. The Board shall require each holder of a license to practice osteopathic medicine 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 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:

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

(b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice osteopathic medicine to submit a report annually to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the ~~[Administrator of the Health Division of the Department of Health and Human Services]~~ **State Board of Health** for reporting information pursuant to NRS 439.835.



3. Each holder of a license to practice osteopathic medicine shall submit the report required pursuant to subsections 1 and 2 whether or not he performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to NRS 633.511.

4. The Board shall:

(a) Collect and maintain reports received pursuant to subsections 1 and 2; 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.

5. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1 or 2 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

6. 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.

7. In addition to any other remedy or penalty, if a holder of a license to practice osteopathic medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice osteopathic medicine with notice and opportunity for a hearing, impose against the holder of a license an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license to practice osteopathic medicine. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

8. 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



1 of protective reflexes and the inability to respond purposefully to
2 verbal commands.

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

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

14 **Sec. 29.** Any regulations adopted by the Administrator of the
15 Health Division of the Department of Health and Human Services
16 before July 1, 2009, pursuant to NRS 439.800 to 439.890, inclusive,
17 and section 2 of this act remain in effect and may be enforced by the
18 State Board of Health until the Board adopts regulations to repeal or
19 replace those regulations.

20 **Sec. 30.** This act becomes effective on July 1, 2009.

