

Amendment No. 328

Assembly Amendment to Assembly Bill No. 123 (BDR 40-215)

Proposed by: Assembly Committee on Health and Human Services**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 123 (§§ 10, 11, 15).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) green bold dashed underlining is newly added transitory language.

CLP/KCR



Date: 4/11/2009

A.B. No. 123—Revises provisions governing certain offices of physicians and related facilities and surgical centers for ambulatory patients.
(BDR 40-215)



ASSEMBLY BILL NO. 123—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON HEALTH CARE)

PREFILED JANUARY 27, 2009

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing certain offices of physicians and related facilities and surgical centers for ambulatory patients. (BDR 40-215)

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

~

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

AN ACT relating to public health; requiring offices of physicians and related facilities to obtain a permit and national accreditation before providing certain services involving anesthesia and sedation; **providing an exception for certain offices and facilities**; requiring surgical centers for ambulatory patients to obtain national accreditation; requiring annual inspections of such offices, facilities and surgical centers; requiring that copies of reports relating to the use of anesthesia and sedation by physicians be submitted to the Health Division of the Department of Health and Human Services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain medical facilities, including hospitals, psychiatric hospitals, community triage centers and surgical centers for ambulatory patients, to be licensed by the Health Division of the Department of Health and Human Services. (NRS 449.030)

Sections ~~8-10~~ 9-11 of this bill require offices of physicians and other facilities providing health care that are not licensed as a medical facility by the Health Division to obtain a permit from the Division before offering general anesthesia, conscious sedation or deep sedation and prescribe the procedure for obtaining such a permit. The office or facility must maintain current accreditation by a nationally recognized accrediting organization approved by the State Board of Health.

Section ~~11~~ 12 of this bill requires each surgical center for ambulatory patients to maintain current accreditation by a nationally recognized accrediting organization approved by the State Board of Health.

Section ~~12~~ 13 of this bill requires the Health Division to conduct annual and unannounced inspections of each office and facility which holds a permit issued by the Health Division and each surgical center for ambulatory patients which holds a license issued by the Health Division.

Section ~~14~~ 14 of this bill prescribes the sanctions which the Health Division may impose for a violation of sections ~~3-14~~ 3-15 of this bill by an office or facility or by a surgical center for ambulatory patients.

Section ~~14~~ 15 of this bill requires the State Board of Health to prescribe regulations to carry out the provisions of sections ~~3-14~~ 3-15 of this bill, including fees for the issuance and renewal of permits. The regulations are subject to review by the Legislative Committee on Health Care. (NRS 439B.225)

Section 8 of this bill provides that sections 3-15 of this bill do not apply to an office of a physician or other facility that is not licensed as a medical facility if the office or facility only administers medication to a patient to relieve the patient's anxiety or pain in certain circumstances.

Existing law requires a physician licensed to practice medicine or osteopathic medicine to report the number and types of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the physician at his office or certain other facilities. (NRS 630.30665, 633.524) Sections ~~19 and 22~~ 20 and 23 of this bill require the Board of Medical Examiners and the State Board of Osteopathic Medicine to forward to the Health Division such reports.

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

Section 1. NRS 439B.225 is hereby amended to read as follows:
439B.225 1. As used in this section, "licensing board" means any division or board empowered to adopt standards for ~~licensing~~ *the issuance or renewal of licenses, permits or certificates of* registration ~~for for the renewal of licenses or certificates of registration~~ pursuant to NRS 435.3305 to 435.339, inclusive, chapter 449, 625A, 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 639, 640, 640A, 641, 641A, 641B, 641C, 652 or 654 of NRS.

2. The Committee shall review each regulation that a licensing board proposes or adopts that relates to standards for ~~licensing~~ *the issuance or renewal of licenses, permits or certificates of* registration ~~for to the renewal of a license or certificate of registration~~ issued to a person or facility regulated by the board, giving consideration to:

(a) Any oral or written comment made or submitted to it by members of the public or by persons or facilities affected by the regulation;

(b) The effect of the regulation on the cost of health care in this State;

(c) The effect of the regulation on the number of licensed, *permitted* or registered persons and facilities available to provide services in this State; and

(d) Any other related factor the Committee deems appropriate.

3. After reviewing a proposed regulation, the Committee shall notify the agency of the opinion of the Committee regarding the advisability of adopting or revising the proposed regulation.

4. The Committee shall recommend to the Legislature as a result of its review of regulations pursuant to this section any appropriate legislation.

Sec. 2. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to ~~14~~ 15, inclusive, of this act.

Sec. 3. *As used in sections 3 to ~~14~~ 15, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"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.

Sec. 5. "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.

Sec. 6. "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.

Sec. 7. "Physician" means a person who is licensed to practice medicine pursuant to chapter 630 of NRS or osteopathic medicine pursuant to chapter 633 of NRS.

Sec. 8. The provisions of sections 3 to 15, inclusive, of this act do not apply to an office of a physician or a facility that provides health care, other than a medical facility, if the office of a physician or the facility only administers a medication to a patient to relieve the patient's anxiety or pain and 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.

~~Sec. 8.~~ Sec. 9. 1. An office of a physician or a facility that provides health care, other than a medical facility, must obtain a permit pursuant to section ~~10~~ 10 of this act before offering to a patient a service of general anesthesia, conscious sedation or deep sedation. An office of a physician or a facility that provides health care, other than a medical facility, which operates at more than one location must obtain a permit for each location where a service of general anesthesia, conscious sedation or deep sedation is offered.

2. To offer to a patient a service of general anesthesia, conscious sedation or deep sedation in this State, an office of a physician or a facility that provides health care, other than a medical facility, must maintain current accreditation by a nationally recognized organization approved by the Board. Upon receiving an initial permit, the office or facility shall, within 6 months after obtaining the permit, submit proof to the Health Division of accreditation by such an organization.

3. If an office of a physician or a facility that provides health care, other than a medical facility, fails to maintain current accreditation or if the accreditation is revoked or is otherwise no longer valid, the office or facility shall immediately cease offering to patients a service of general anesthesia, conscious sedation or deep sedation.

~~Sec. 9.~~ Sec. 10. 1. An office of a physician or a facility that provides health care, other than a medical facility, desiring a permit pursuant to sections 3 to ~~14~~ 15, inclusive, of this act must submit to the Health Division, on a form prescribed by the Health Division and accompanied by the appropriate fee, an application for a permit.

2. Before issuing a permit, the Health Division shall conduct an on-site inspection pursuant to section ~~12~~ 13 of this act of each office of a physician or facility that applies for a permit.

3. Upon receipt of an application and the appropriate fee, the Health Division may, after conducting an inspection pursuant to section ~~12~~ 13 of this act, issue a permit.

4. A permit expires 1 year after the date of issuance and is renewable pursuant to section ~~10~~ 11 of this act.

~~[Sec. 10.]~~ *Sec. 11. 1. The holder of a permit issued pursuant to section ~~[99]~~ 10 of this act may annually submit to the Health Division, on a form prescribed by the Health Division and accompanied by the appropriate fee, an application for renewal of the permit before the date on which the permit expires. The application must include proof satisfactory to the Health Division that the office or facility maintains current accreditation by a nationally recognized organization approved by the Board.*

2. Upon receipt of an application for renewal and the accompanying fee, the Health Division may renew a permit.

~~[Sec. 11.]~~ *Sec. 12. 1. To operate in this State, a surgical center for ambulatory patients must maintain current accreditation by a nationally recognized organization approved by the Board. Upon initial licensure, a surgical center for ambulatory patients shall, within 6 months after obtaining its license, submit proof to the Health Division of the accreditation of the surgical center by such an organization.*

2. Before issuing a license to a surgical center for ambulatory patients, the Health Division shall conduct an on-site inspection of the surgical center pursuant to section ~~[12]~~ 13 of this act.

3. If a surgical center for ambulatory patients fails to maintain current accreditation or if the accreditation is revoked or is otherwise no longer valid, the surgical center shall immediately cease to operate.

~~[Sec. 12.]~~ *Sec. 13. 1. The Health Division shall conduct annual and unannounced on-site inspections of each office of a physician or a facility that provides health care, other than a medical facility, which holds a permit issued pursuant to section ~~[99]~~ 10 of this act and each surgical center for ambulatory patients which holds a license issued pursuant to this chapter.*

2. An inspection conducted pursuant to this section must focus on the infection control practices and policies of the surgical center for ambulatory patients, the office or the facility that is the subject of the inspection. The Health Division may, as it deems necessary, conduct a more comprehensive inspection of a surgical center, office or facility.

3. Upon completion of an inspection, the Health Division shall:

(a) Compile a report of the inspection, including each deficiency discovered during the inspection, if any; and

(b) Forward a copy of the report to the surgical center for ambulatory patients, the office of the physician or the facility where the inspection was conducted.

4. If a deficiency is indicated in the report, the surgical center for ambulatory patients, the office of the physician or the facility shall correct each deficiency indicated in the report in the manner prescribed by the Board pursuant to section ~~[14]~~ 15 of this act.

5. The Health Division shall annually prepare and submit to the Legislative Committee on Health Care and the Legislative Commission a report which includes:

(a) The number and frequency of inspections conducted pursuant to this section;

(b) A summary of deficiencies or other significant problems discovered while conducting inspections pursuant to this section and the results of any follow-up inspections; and

(c) Any other information relating to the inspections as deemed necessary by the Legislative Committee on Health Care or the Legislative Commission.

~~[Sec. 13.]~~ *Sec. 14. 1. If an office of a physician or a facility that provides health care, other than a medical facility, violates the provisions of*

sections 3 to ~~144~~ 15, inclusive, of this act, or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to section ~~142~~ 13 of this act, the Health Division, in accordance with the regulations adopted pursuant to section ~~144~~ 15 of this act, may take any of the following actions:

(a) Decline to issue or renew a permit;
(b) Suspend or revoke a permit; or
(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.

2. The Health Division may review a report submitted pursuant to NRS 630.30665 or 633.524 to determine whether an office of a physician or a facility is in violation of the provisions of sections 3 to ~~144~~ 15, inclusive, of this act or the regulations adopted pursuant thereto. If the Health Division determines that such a violation has occurred, the Health Division shall immediately notify the appropriate professional licensing board of the physician.

3. If a surgical center for ambulatory patients violates the provisions of sections 3 to ~~144~~ 15, inclusive, of this act, or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to section ~~142~~ 13 of this act, the Health Division may impose administrative sanctions pursuant to NRS 449.163.

~~Sec. 14.~~ Sec. 15. 1. The Board shall adopt regulations to carry out the provisions of sections 3 to ~~144~~ 15, inclusive, of this act, including, without limitation, regulations which:

(a) Prescribe the amount of the fee required for applications for the issuance and renewal of a permit pursuant to sections ~~109~~ 10 and ~~109~~ 11 of this act.

(b) Prescribe the procedures and standards for the issuance and renewal of a permit.

(c) Identify the nationally recognized organizations approved by the Board for the purposes of the accreditation required for the issuance of a:

(1) License to operate a surgical center for ambulatory patients.

(2) Permit for an office of a physician or a facility that provides health care, other than a medical facility, to offer to a patient a service of general anesthesia, conscious sedation or deep sedation.

(d) Prescribe the procedures and scope of the inspections conducted by the Health Division pursuant to section ~~142~~ 13 of this act.

(e) Prescribe the procedures and time frame for correcting each deficiency indicated in a report pursuant to section ~~142~~ 13 of this act.

(f) Prescribe the criteria for the imposition of each sanction prescribed by section ~~143~~ 14 of this act, including, without limitation:

(1) Setting forth the circumstances and manner in which a sanction applies;

(2) Minimizing the time between the identification of a violation and the imposition of a sanction; and

(3) Providing for the imposition of incrementally more severe sanctions for repeated or uncorrected violations.

2. The regulations adopted pursuant to this section must require that the practices and policies of each holder of a permit to offer to a patient a service of general anesthesia, conscious sedation or deep sedation and each holder of a license to operate a surgical center for ambulatory patients provide adequately for the protection of the health, safety and well-being of patients.

~~Sec. 15.~~ **Sec. 16.** NRS 233B.063 is hereby amended to read as follows:
233B.063 1. At least 30 days before the time of giving notice of its intention to adopt, amend or repeal a permanent regulation, an agency shall deliver to the Legislative Counsel a copy of the proposed regulation. The Legislative Counsel shall examine and if appropriate revise the language submitted so that it is clear, concise and suitable for incorporation in the Nevada Administrative Code, but shall not alter the meaning or effect without the consent of the agency.

2. Unless the proposed regulation is submitted to him between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall deliver the approved or revised text of the regulation within 30 days after it is submitted to him. If the proposed or revised text of a regulation is changed before adoption, the agency shall submit the changed text to the Legislative Counsel, who shall examine and revise it if appropriate pursuant to the standards of subsection 1. Unless it is submitted between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall return it with any appropriate revisions within 30 days. If the agency is a licensing board as defined in NRS 439B.225 and the proposed regulation relates to standards for ~~licensing~~ *the issuance or renewal of licenses, permits or certificates of registration* ~~for or for the renewal of a license or a certificate of registration~~ issued to a person or facility regulated by the agency, the Legislative Counsel shall also deliver one copy of the approved or revised text of the regulation to the Legislative Committee on Health Care.

3. An agency may adopt a temporary regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year without following the procedure required by this section and NRS 233B.064, but any such regulation expires by limitation on November 1 of the odd-numbered year. A substantively identical permanent regulation may be subsequently adopted.

4. An agency may amend or suspend a permanent regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year by adopting a temporary regulation in the same manner and subject to the same provisions as prescribed in subsection 3.

~~Sec. 16.~~ **Sec. 17.** NRS 233B.070 is hereby amended to read as follows:

233B.070 1. A permanent regulation becomes effective when the Legislative Counsel files with the Secretary of State the original of the final draft or revision of a regulation, except as otherwise provided in NRS 293.247 or where a later date is specified in the regulation.

2. Except as otherwise provided in NRS 233B.0633, an agency that has adopted a temporary regulation may not file the temporary regulation with the Secretary of State until 35 days after the date on which the temporary regulation was adopted by the agency. A temporary regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of the regulation, together with the informational statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the temporary regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.

3. An emergency regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of an emergency regulation, together with the informational statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the emergency regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.

4. The Secretary of State shall maintain the original of the final draft or revision of each regulation in a permanent file to be used only for the preparation of official copies.

5. The Secretary of State shall file, with the original of each agency's rules of practice, the current statement of the agency concerning the date and results of its most recent review of those rules.

6. Immediately after each permanent or temporary regulation is filed, the agency shall deliver one copy of the final draft or revision, bearing the stamp of the Secretary of State indicating that it has been filed, including material adopted by reference which is not already filed with the State Library and Archives Administrator, to the State Library and Archives Administrator for use by the public. If the agency is a licensing board as defined in NRS 439B.225 and it has adopted a permanent regulation relating to standards for ~~licensing~~ *the issuance or renewal of licenses, permits or certificates of registration* ~~for for the renewal of a license or a certificate of registration~~ issued to a person or facility regulated by the agency, the agency shall also deliver one copy of the regulation, bearing the stamp of the Secretary of State, to the Legislative Committee on Health Care within 10 days after the regulation is filed with the Secretary of State.

7. Each agency shall furnish a copy of all or part of that part of the Nevada Administrative Code which contains its regulations, to any person who requests a copy, and may charge a reasonable fee for the copy based on the cost of reproduction if it does not have money appropriated or authorized for that purpose.

8. An agency which publishes any regulations included in the Nevada Administrative Code shall use the exact text of the regulation as it appears in the Nevada Administrative Code, including the headlines and numbers of the sections. Any other material which an agency includes in a publication with its regulations must be presented in a form which clearly distinguishes that material from the regulations.

~~Sec. 17.~~ *Sec. 18.* Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered:

(a) In an office of a physician or osteopathic physician which holds a permit pursuant to sections 3 to ~~14~~ 15, inclusive, of this act;

(b) In a facility which holds a permit pursuant to sections 3 to ~~14~~ 15, inclusive, of this act;

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

(d) Outside of this State.

2. As used in this section:

(a) "Conscious sedation" has the meaning ascribed to it in section 4 of this act.

(b) "Deep sedation" has the meaning ascribed to it in section 5 of this act.

(c) "General anesthesia" has the meaning ascribed to it in section 6 of this act.

~~Sec. 18.~~ *Sec. 19.* NRS 630.306 is hereby amended to read as follows:

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

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

2. Engaging in any conduct:

(a) Which is intended to deceive;

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

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

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

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

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

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

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

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

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

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

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

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

13. Failure to comply with the requirements of section ~~17~~ 18 of this act.

~~Sec. 19.~~ **Sec. 20.** NRS 630.30665 is hereby amended to read as follows:

630.30665 1. The Board shall require each holder of a license to practice medicine to submit annually to the Board, on a form provided by the Board, 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 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~~ for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice medicine shall submit the ~~report~~ **reports** 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 ~~§~~; and

(c) Submit to the Health Division a copy of the report submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection 5.

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.]~~ *has the meaning ascribed to it in section 4 of this act.*

(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.]~~ *has the meaning ascribed to it in section 5 of this act.*

(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.]~~ *has the meaning ascribed to it in section 6 of this act.*

(d) *"Health Division" has the meaning ascribed to it in NRS 449.009.*

(e) "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. 20.* *Sec. 21.* Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An osteopathic physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered:

1 *(a) In an office of a physician or osteopathic physician which holds a permit*
2 *pursuant to sections 3 to ~~14~~ 15, inclusive, of this act;*

3 *(b) In a facility which holds a permit pursuant to sections 3 to ~~14~~ 15,*
4 *inclusive, of this act;*

5 *(c) In a medical facility as that term is defined in NRS 449.0151; or*

6 *(d) Outside of this State.*

7 **2. As used in this section:**

8 *(a) "Conscious sedation" has the meaning ascribed to it in section 4 of this*
9 *act.*

10 *(b) "Deep sedation" has the meaning ascribed to it in section 5 of this act.*

11 *(c) "General anesthesia" has the meaning ascribed to it in section 6 of this*
12 *act.*

13 ~~Sec. 21.~~ **Sec. 22.** NRS 633.511 is hereby amended to read as follows:

14 633.511 The grounds for initiating disciplinary action pursuant to this chapter
15 are:

16 1. Unprofessional conduct.

17 2. Conviction of:

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

21 (b) A felony relating to the practice of osteopathic medicine;

22 (c) A violation of any of the provisions of NRS 616D.200, 616D.220,
23 616D.240 or 616D.300 to 616D.440, inclusive;

24 (d) Murder, voluntary manslaughter or mayhem;

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

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

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

29 (h) Abuse or neglect of a child or contributory delinquency; or

30 (i) Any offense involving moral turpitude.

31 3. The suspension of the license to practice osteopathic medicine by any other
32 jurisdiction.

33 4. Gross or repeated malpractice, which may be evidenced by claims of
34 malpractice settled against a practitioner.

35 5. Professional incompetence.

36 6. Failure to comply with the requirements of NRS 633.527.

37 7. Failure to comply with the requirements of subsection 3 of NRS 633.471.

38 **8. Failure to comply with the requirements of section ~~20~~ 21 of this act.**

39 ~~Sec. 22.~~ **Sec. 23.** NRS 633.524 is hereby amended to read as follows:

40 633.524 1. The Board shall require each holder of a license to practice
41 osteopathic medicine issued pursuant to this chapter to submit annually to the
42 Board, on a form provided by the Board, and in the format required by the Board by
43 regulation, a report stating the number and type of surgeries requiring conscious
44 sedation, deep sedation or general anesthesia performed by the holder of the license
45 at his office or any other facility, excluding any surgical care performed:

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

47 (b) Outside of this State.

48 2. In addition to the report required pursuant to subsection 1, the Board shall
49 require each holder of a license to practice osteopathic medicine to submit a report
50 annually to the Board concerning the occurrence of any sentinel event arising from
51 any surgery described in subsection 1. The report must be submitted in the manner
52 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]~~ for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice osteopathic medicine shall submit the ~~[report]~~ **reports** 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 ~~[]~~; **and**

(c) Submit to the Health Division a copy of the report submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection 5.

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.]~~ ***has the meaning ascribed to it in section 4 of this act.***

(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.]~~ ***has the meaning ascribed to it in section 5 of this act.***

(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.]~~ ***has the meaning ascribed to it in section 6 of this act.***

(d) ***"Health Division" has the meaning ascribed to it in NRS 449.009.***

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

5 ~~Sec. 23.~~ **Sec. 24.** The State Board of Health shall:

6 1. On or before October 1, 2009, adopt regulations pursuant to section ~~144~~ **15**
7 of this act relating to the nationally recognized organizations approved by the Board
8 for the accreditation of surgical centers for ambulatory patients required by section
9 ~~144~~ **12** of this act.

10 2. On or before January 1, 2010, adopt all other regulations required by
11 section ~~144~~ **15** of this act.

12 ~~Sec. 24.~~ **Sec. 25.** A surgical center for ambulatory patients that holds a
13 license pursuant to chapter 449 of NRS which was issued before October 1, 2009,
14 shall, on or before March 31, 2010, submit to the Health Division of the
15 Department of Health and Human Services documentation that the surgical center
16 is accredited pursuant to the regulations adopted by the State Board of Health in
17 accordance with section ~~144~~ **15** of this act.

18 ~~Sec. 25.~~ **Sec. 26.** An office of a physician or a facility that provides
19 health care, other than a medical facility, which offers to a patient a service of
20 general anesthesia, conscious sedation or deep sedation must obtain a permit
21 pursuant to section ~~19~~ **10** of this act on or before October 1, 2010.

22 ~~Sec. 26.~~ **Sec. 27.** 1. This section and sections 1, ~~144~~ **15**, 16, ~~17~~ and
23 ~~22~~ **24** of this act become effective upon passage and approval for the purpose of
24 adopting regulations and on January 1, 2010, for all other purposes.

25 2. Sections 2 to ~~13~~ **14**, inclusive, ~~17~~ **18** to ~~22~~ **23**, inclusive, ~~24~~ **25** and
26 ~~25~~ **26** of this act become effective on January 1, 2010.