

SENATE BILL NO. 364—COMMITTEE ON COMMERCE AND LABOR
(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON HEALTH CARE)

MARCH 23, 2009

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to professional licensing boards and professional licenses. (BDR 54-220)

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

~

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

AN ACT relating to professions; authorizing various professional boards to employ or retain attorneys, investigate certain violations, refer certain violations for applicable enforcement action and impose additional administrative fines; revising provisions related to licensure of various professions; authorizing physician assistants to be supervised remotely under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes regulatory bodies, as defined in NRS 622.060, to employ or retain attorneys other than the Attorney General. **Sections 2 and 15** of this bill revise other provisions to comport with this authorization.

Section 4 of this bill defines the term “board which regulates a health care profession.” **Section 5** of this bill provides additional authority to such boards which regulate health care professions, including the authority to: (1) investigate occurrences of unlawful activity; (2) refer occurrences of such unlawful activity to the Attorney General or a district attorney to prosecute and to obtain an injunction, as applicable; and (3) impose additional administrative fines upon persons engaging in such unlawful activity under certain circumstances. **Section 7** of this bill revises other provisions to account for the new definition.

Sections 8, 12, 16 and 18 of this bill provide similar alternative paths for licensure in this State, under certain circumstances, for physicians, osteopathic physicians, psychologists and various social workers who are licensed in other jurisdictions. **Section 17** of this bill revises other provisions to account for this alternative path for licensure for psychologists.



* S B 3 6 4 *

17 **Section 9** of this bill authorizes the Board of Medical Examiners to approve an
18 application for a license under certain circumstances if the applicant has applied for
19 and is awaiting a decision regarding a J-1 visa waiver.

20 **Sections 10 and 13** of this bill provide for limited and special licenses,
21 respectively, for physicians and osteopathic physicians who have completed
22 residency programs under certain circumstances.

23 **Sections 11 and 14** of this bill authorize the supervision of a physician assistant
24 by a physician or osteopathic physician, respectively, using telecommunication and
25 remote file review.

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

1 **Section 1.** Chapter 622 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *A regulatory body may, as necessary for the discharge of its*
4 *duties, employ or retain attorneys other than the Attorney General*
5 *and his deputies.*

6 **Sec. 2.** NRS 622A.070 is hereby amended to read as follows:
7 622A.070 "Prosecutor" means any of the following:

8 1. The Attorney General or a deputy attorney general who
9 prosecutes a contested case pursuant to this chapter;

10 2. If the Attorney General and his deputies are disqualified to
11 act in such a matter, an attorney appointed by the Attorney General
12 to prosecute a contested case pursuant to this chapter; or

13 3. ~~If the regulatory body is authorized to employ or retain~~
14 ~~attorneys other than the Attorney General and his deputies, an] An~~
15 attorney employed or retained by the regulatory body to prosecute a
16 contested case pursuant to this chapter.

17 **Sec. 3.** Chapter 629 of NRS is hereby amended by adding
18 thereto the provisions set forth as sections 4 and 5 of this act.

19 **Sec. 4.** *"Board which regulates a health care profession"*
20 *means a board created pursuant to chapter 630, 630A, 631, 632,*
21 *633, 634, 634A, 635, 636, 637, 637A, 637B, 639, 640, 640A, 640B,*
22 *640C, 641, 641A, 641B or 641C.*

23 **Sec. 5.** *In addition to any other powers and duties provided*
24 *by law, a board which regulates a health care profession may:*

25 1. *Investigate any alleged occurrence of a person unlawfully*
26 *engaging in an activity regulated by the chapter which created the*
27 *board.*

28 2. *If an investigation undertaken pursuant to subsection 1*
29 *indicates that a person has unlawfully engaged in an activity*
30 *regulated by the chapter which created the board, request the*
31 *Attorney General, the district attorney of the county in which the*
32 *alleged occurrence occurred or the district attorney of any other*



1 *county in which that person maintains a place of business or*
2 *resides to:*

3 *(a) Pursue any appropriate criminal prosecution; and*

4 *(b) Apply on behalf of the board to the district court for an*
5 *injunction restraining the person from acting in violation of the*
6 *chapter which created the board. Upon a proper showing, a*
7 *temporary restraining order, a preliminary injunction or a*
8 *permanent injunction may be granted. The board as plaintiff in*
9 *the action is not required to prove any irreparable injury.*

10 3. *In addition to any other penalty, impose an administrative*
11 *fine in an amount that is not less than \$1,000 and not more than*
12 *\$50,000 for each occurrence if, after an investigation undertaken*
13 *pursuant to subsection 1, the board finds that a person:*

14 *(a) Unlawfully engaged in an activity regulated by the chapter*
15 *which created the board; and*

16 *(b) While unlawfully engaging in an activity as described in*
17 *paragraph (a), falsely represented that he had a valid and*
18 *applicable license, registration, permit or other authorization*
19 *issued by the board which would authorize the activity.*

20 **Sec. 6.** NRS 629.011 is hereby amended to read as follows:

21 629.011 As used in this chapter, unless the context otherwise
22 requires, words and terms defined in NRS 629.021 and 629.031 *and*
23 *section 4 of this act* have the meanings ascribed to them in those
24 sections.

25 **Sec. 7.** NRS 629.097 is hereby amended to read as follows:

26 629.097 1. If the Governor must appoint to a board *which*
27 *regulates a health care profession* a person who is a member of a
28 profession being regulated by that board, the Governor shall solicit
29 nominees from one or more applicable professional associations in
30 this State.

31 2. To the extent practicable, such an applicable professional
32 association shall provide nominees who represent the geographic
33 diversity of this State.

34 3. The Governor may appoint any qualified person to a board
35 *[] which regulates a health care profession*, without regard to
36 whether the person is nominated pursuant to this section.

37 ~~[4. As used in this section, "board" refers to a board created~~
38 ~~pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 636,~~
39 ~~637, 637A, 637B, 639, 640, 640A, 640B, 640C, 641, 641A, 641B or~~
40 ~~641C.]~~

41 **Sec. 8.** Chapter 630 of NRS is hereby amended by adding
42 thereto a new section to read as follows:

43 1. *The Board shall issue a license to practice medicine to a*
44 *person who:*



1 (a) *Has a license to practice medicine issued pursuant to the*
2 *laws of another state or territory of the United States or the*
3 *District of Columbia;*

4 (b) *Has practiced medicine pursuant to the laws of another*
5 *state or territory of the United States or the District of Columbia*
6 *for not less than 5 years;*

7 (c) *Has not had his license to practice medicine revoked or*
8 *suspended in this State, another state or territory of the United*
9 *States or the District of Columbia;*

10 (d) *Has not been refused a license to practice medicine in this*
11 *State, another state or territory of the United States or the District*
12 *of Columbia;*

13 (e) *Is not involved in and does not have pending a disciplinary*
14 *action concerning his license to practice medicine in this State,*
15 *another state or territory of the United States or the District of*
16 *Columbia;*

17 (f) *Pays the application and renewal fees set forth in*
18 *NRS 630.268;*

19 (g) *Submits the statement required by NRS 630.197; and*

20 (h) *Submits a complete set of fingerprints and written*
21 *permission authorizing the Board to forward the fingerprints to*
22 *the Central Repository for Nevada Records of Criminal History*
23 *for submission to the Federal Bureau of Investigation for its*
24 *report.*

25 2. *Notwithstanding any provision of this chapter to the*
26 *contrary, a person who satisfies the requirements of subsection 1*
27 *is not required to comply with any other requirements set forth in*
28 *this chapter to obtain a license pursuant to this section.*

29 3. *The provisions of this section do not limit a person from*
30 *obtaining a license to practice medicine pursuant to any other*
31 *provisions of law.*

32 **Sec. 9.** NRS 630.160 is hereby amended to read as follows:

33 630.160 1. Every person desiring to practice medicine must,
34 before beginning to practice, procure from the Board a license
35 authorizing him to practice.

36 2. Except as otherwise provided in NRS 630.1605, 630.161
37 *and section 8 of this act* and 630.258 to 630.265, inclusive, a
38 license may be issued to any person who:

39 (a) ~~Has~~ *Except as otherwise provided in subsection 3, is a*
40 *citizen of the United States or is lawfully entitled to remain and*
41 *work in the United States;*

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



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

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

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

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

(2) All parts of the *former* Federation Licensing Examination;

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

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

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

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

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

(1) Has completed 36 months of progressive postgraduate:

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

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

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

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



1 **3. The Board may process and approve the application for a**
2 **license pursuant to this section of a person who does not meet the**
3 **requirements of paragraph (a) of subsection 2 if:**

4 **(a) The person has requested a J-1 visa waiver;**

5 **(b) Receipt of a J-1 visa waiver would cause the person to meet**
6 **the requirements of paragraph (a) of subsection 2; and**

7 **(c) The person's request for a J-1 visa waiver has not been**
8 **approved or denied.**

9 **↳ A person whose application for a license has been processed**
10 **and approved in accordance with this subsection shall not practice**
11 **medicine until he receives a J-1 visa waiver.**

12 **Sec. 10.** NRS 630.261 is hereby amended to read as follows:

13 630.261 1. Except as otherwise provided in NRS 630.161,
14 the Board may issue:

15 (a) A locum tenens license, to be effective not more than 3
16 months after issuance, to any physician who is licensed and in good
17 standing in another state, who meets the requirements for licensure
18 in this State and who is of good moral character and reputation. The
19 purpose of this license is to enable an eligible physician to serve as a
20 substitute for another physician who is licensed to practice medicine
21 in this State and who is absent from his practice for reasons deemed
22 sufficient by the Board. A license issued pursuant to the provisions
23 of this paragraph is not renewable.

24 (b) A special license to a licensed physician of another state to
25 come into this State to care for or assist in the treatment of his own
26 patient in association with a physician licensed in this State. A
27 special license issued pursuant to the provisions of this paragraph is
28 limited to the care of a specific patient. The physician licensed in
29 this State has the primary responsibility for the care of that patient.

30 (c) A restricted license for a specified period if the Board
31 determines the applicant needs supervision or restriction.

32 (d) A temporary license for a specified period if the physician is
33 licensed and in good standing in another state and meets the
34 requirements for licensure in this State, and if the Board determines
35 that it is necessary in order to provide medical services for a
36 community without adequate medical care. A temporary license
37 issued pursuant to the provisions of this paragraph is not renewable.

38 (e) A special purpose license to a physician who is licensed in
39 another state to permit the use of equipment that transfers
40 information concerning the medical condition of a patient in this
41 State across state lines electronically, telephonically or by fiber
42 optics if the physician:

43 (1) Holds a full and unrestricted license to practice medicine
44 in that state;



(2) Has not had any disciplinary or other action taken against him by any state or other jurisdiction; and

(3) Meets the requirements set forth in paragraph (d) of subsection 2 of NRS 630.160.

(f) A limited license to a person regarding whom the Board has received:

(1) A certificate of completion of progressive postgraduate training from the residency program where the person received training;

(2) A report pursuant to NRS 630.167 which is satisfactory to the Board; and

(3) The statement required pursuant to NRS 630.197.

↪ A limited license issued to a person pursuant to this paragraph expires after a period specified by the Board which is calculated to allow the person to complete all remaining requirements for licensure pursuant to NRS 630.160, including, without limitation, taking any examinations and receiving any certifications.

2. Except as otherwise provided in this section, the Board may renew or modify any license issued pursuant to subsection 1.

Sec. 11. NRS 630.271 is hereby amended to read as follows:

630.271 1. A physician assistant may perform such medical services as he is authorized to perform by his supervising physician.

2. The Board and supervising physician shall limit the authority of a physician assistant to prescribe controlled substances to those schedules of controlled substances that the supervising physician is authorized to prescribe pursuant to state and federal law.

3. A supervising physician may supervise a physician assistant through telecommunication and remotely reviewing information concerning a patient.

Sec. 12. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board shall issue a license to practice medicine to a person who:

(a) Has a license to practice osteopathic medicine issued pursuant to the laws of another state or territory of the United States or the District of Columbia;

(b) Has practiced osteopathic medicine pursuant to the laws of another state or territory of the United States or the District of Columbia for not less than 5 years;

(c) Has not had his license to practice osteopathic medicine revoked or suspended in this State, another state or territory of the United States or the District of Columbia;



1 (d) *Has not been refused a license to practice osteopathic*
2 *medicine in this State, another state or territory of the United*
3 *States or the District of Columbia;*

4 (e) *Is not involved in and does not have pending a disciplinary*
5 *action concerning his license to practice osteopathic medicine in*
6 *this State, another state or territory of the United States or the*
7 *District of Columbia;*

8 (f) *Pays the application and renewal fees set forth in*
9 *NRS 633.501;*

10 (g) *Submits the statement required by NRS 633.307; and*

11 (h) *Submits a complete set of fingerprints and written*
12 *permission authorizing the Board to forward the fingerprints to*
13 *the Central Repository for Nevada Records of Criminal History*
14 *for submission to the Federal Bureau of Investigation for its*
15 *report.*

16 2. *Notwithstanding any provision of this chapter to the*
17 *contrary, a person who satisfies the requirements of subsection 1*
18 *is not required to comply with any other requirements set forth in*
19 *this chapter to obtain a license pursuant to this section.*

20 3. *The provisions of this section do not limit a person from*
21 *obtaining a license to practice osteopathic medicine pursuant to*
22 *any other provisions of law.*

23 **Sec. 13.** NRS 633.401 is hereby amended to read as follows:

24 633.401 1. Except as otherwise provided in NRS 633.315,
25 the Board may issue a special license to practice osteopathic
26 medicine:

27 (a) To authorize a person who is licensed to practice osteopathic
28 medicine in an adjoining state to come into Nevada to care for or
29 assist in the treatment of his patients in association with an
30 osteopathic physician in this State who has primary care of the
31 patients.

32 (b) To a resident while he is enrolled in a postgraduate training
33 program required pursuant to the provisions of paragraph (c) of
34 subsection 4 of NRS 633.311.

35 (c) For a specified period and for specified purposes to a person
36 who is licensed to practice osteopathic medicine in another
37 jurisdiction.

38 (d) *To a person regarding whom the Board has received:*

39 (1) *A certificate of completion of progressive postgraduate*
40 *training from the residency program where the person received*
41 *training;*

42 (2) *A report pursuant to NRS 633.309 which is satisfactory*
43 *to the Board; and*

44 (3) *The statement required pursuant to NRS 633.307.*



1 ↪ *A special license issued to a person pursuant to this paragraph*
2 *expires after a period specified by the Board which is calculated to*
3 *allow the person to complete all remaining requirements for*
4 *licensure pursuant to NRS 633.311, including, without limitation,*
5 *taking any examinations and receiving any certifications.*

6 2. A special license issued under this section may be renewed
7 by the Board upon application of the licensee.

8 3. Every person who applies for or renews a special license
9 under this section shall pay respectively the special license fee or
10 special license renewal fee specified in this chapter.

11 **Sec. 14.** NRS 633.469 is hereby amended to read as follows:

12 633.469 1. A supervising osteopathic physician shall provide
13 supervision to his physician assistant continuously whenever the
14 physician assistant is performing his professional duties.

15 2. Except as otherwise provided in subsection 3, a supervising
16 osteopathic physician may provide supervision to his physician
17 assistant in person or by *both using telecommunication [] and*
18 *remotely reviewing information concerning a patient.* When
19 providing supervision by *using telecommunication [] and remotely*
20 *reviewing information concerning a patient,* a supervising
21 osteopathic physician may be at a different site than the physician
22 assistant.

23 3. A supervising osteopathic physician shall provide
24 supervision to his physician assistant in person at all times during
25 the first 30 days that the supervising osteopathic physician
26 supervises the physician assistant. After the first 30 days, the
27 supervising osteopathic physician ~~[shall not]~~ *may* regularly maintain
28 the physician assistant at a different site than the supervising
29 osteopathic physician. The provisions of this subsection do not
30 apply to a federally qualified health center.

31 4. Before beginning to supervise a physician assistant, a
32 supervising osteopathic physician must communicate to the
33 physician assistant:

34 (a) The scope of practice of the physician assistant;

35 (b) The access to the supervising osteopathic physician that the
36 physician assistant will have; and

37 (c) Any processes for evaluation that the supervising osteopathic
38 physician will use to evaluate the physician assistant.

39 5. A supervising osteopathic physician shall not delegate to his
40 physician assistant, and his physician assistant shall not accept, a
41 task that is beyond the physician assistant's capability to complete
42 safely.

43 6. As used in this section, "federally qualified health center"
44 has the meaning ascribed to it in 42 U.S.C. § 1396d(1)(2)(B).



1 **Sec. 15.** NRS 640C.190 is hereby amended to read as follows:
2 640C.190 1. The Attorney General and his deputies are
3 ~~hereby designated as~~ the attorneys for the Board ~~[-]~~ *unless the*
4 *Board employs or retains attorneys other than the Attorney*
5 *General and his deputies.*

6 2. The provisions of this section do not prevent the Board from
7 employing or retaining other attorneys as it may deem necessary to
8 carry out the provisions of this chapter.

9 **Sec. 16.** Chapter 641 of NRS is hereby amended by adding
10 thereto a new section to read as follows:

11 1. *The Board shall issue a license to practice psychology to a*
12 *person who:*

13 (a) *Has a license to practice psychology issued pursuant to the*
14 *laws of another state or territory of the United States or the*
15 *District of Columbia;*

16 (b) *Has practiced psychology pursuant to the laws of another*
17 *state or territory of the United States or the District of Columbia*
18 *for not less than 5 years;*

19 (c) *Has not had his license to practice psychology revoked or*
20 *suspended in this State, another state or territory of the United*
21 *States or the District of Columbia;*

22 (d) *Has not been refused a license to practice psychology in*
23 *this State, another state or territory of the United States or the*
24 *District of Columbia;*

25 (e) *Is not involved in and does not have pending a disciplinary*
26 *action concerning his license to practice psychology in this State,*
27 *another state or territory of the United States or the District of*
28 *Columbia;*

29 (f) *Pays the application and renewal fees set forth in*
30 *NRS 641.370;*

31 (g) *Submits the statement required by NRS 641.175; and*

32 (h) *Submits a complete set of fingerprints and written*
33 *permission authorizing the Board to forward the fingerprints to*
34 *the Central Repository for Nevada Records of Criminal History*
35 *for submission to the Federal Bureau of Investigation for its*
36 *report.*

37 2. *Notwithstanding any provision of this chapter to the*
38 *contrary, a person who satisfies the requirements of subsection 1*
39 *is not required to comply with any other requirements set forth in*
40 *this chapter to obtain a license pursuant to this section.*

41 3. *The provisions of this section do not limit a person from*
42 *obtaining a license to practice psychology pursuant to any other*
43 *provisions of law.*



1 **Sec. 17.** NRS 641.027 is hereby amended to read as follows:

2 641.027 "Psychologist" means a person who ~~is~~ *is licensed*
3 *pursuant to section 16 of this act or who:*

4 1. Is a graduate of an academic program approved by the Board
5 and is qualified to practice psychology by reason of education,
6 practical training and experience determined by the Board to be
7 satisfactory; and

8 2. Has received from the Board a license to practice
9 psychology.

10 **Sec. 18.** Chapter 641B of NRS is hereby amended by adding
11 thereto a new section to read as follows:

12 1. *The Board shall issue a license to engage in social work as*
13 *a social worker, an independent social worker or a clinical social*
14 *worker to a person who:*

15 (a) *Has a license to engage in social work as a social worker,*
16 *an independent social worker or a clinical social worker,*
17 *respectively, issued pursuant to the laws of another state or*
18 *territory of the United States or the District of Columbia;*

19 (b) *Has engaged in social work as a social worker, an*
20 *independent social worker or a clinical social worker, respectively,*
21 *pursuant to the laws of another state or territory of the United*
22 *States or the District of Columbia for not less than 5 years;*

23 (c) *Has not had his license to engage in social work as a social*
24 *worker, an independent social worker or a clinical social worker,*
25 *respectively, revoked or suspended in this State, another state or*
26 *territory of the United States or the District of Columbia;*

27 (d) *Has not been refused a license to engage in social work as*
28 *a social worker, an independent social worker or a clinical social*
29 *worker in this State, another state or territory of the United States*
30 *or the District of Columbia;*

31 (e) *Is not involved in and does not have pending a disciplinary*
32 *action concerning his license to engage in social work as a social*
33 *worker, an independent social worker or a clinical social worker,*
34 *respectively, in this State, another state or territory of the United*
35 *States or the District of Columbia;*

36 (f) *Pays the application and renewal fees set forth in*
37 *NRS 641B.300;*

38 (g) *Submits the statement required by NRS 641B.206; and*

39 (h) *Submits a complete set of fingerprints and written*
40 *permission authorizing the Board to forward the fingerprints to*
41 *the Central Repository for Nevada Records of Criminal History*
42 *for submission to the Federal Bureau of Investigation for its*
43 *report.*

44 2. *Notwithstanding any provision of this chapter to the*
45 *contrary, a person who satisfies the requirements of subsection 1*



1 *is not required to comply with any other requirements set forth in*
2 *this chapter to obtain a license pursuant to this section.*

3 *3. The provisions of this section do not limit a person from*
4 *obtaining a license to engage in social work as a social worker, an*
5 *independent social worker or a clinical social worker pursuant to*
6 *any other provisions of law.*

7 **Sec. 19.** This act becomes effective on July 1, 2009.

