
SENATE BILL NO. 70—COMMITTEE ON HEALTH AND EDUCATION

PREFILED DECEMBER 12, 2008

Referred to Committee on Health and Education

SUMMARY—Requires certain offices of physicians and related facilities to obtain a permit under certain circumstances and requires annual inspections of surgical centers for ambulatory patients. (BDR 40-169)

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; requiring certain offices of physicians and related facilities to obtain a permit before providing certain services involving anesthesia and sedation; requiring annual inspections of such offices and facilities; requiring annual inspections of surgical centers for ambulatory patients; requiring that copies of certain reports relating to the use of anesthesia and sedation by physicians and osteopathic physicians be submitted to the Health Division of the Department of Health and Human Services; providing a penalty; 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 of this bill require offices of physicians or 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 to patients services of general anesthesia, conscious sedation or deep sedation and prescribe the procedure for obtaining such a permit. **Section 11** of this bill requires the Health Division to conduct annual, unannounced inspections of those offices and facilities.

Section 12 of this bill prescribes the sanctions which the Health Division may impose for a violation of **sections 3-13** of this bill by an office or facility.



Section 13 of this bill requires the State Board of Health to prescribe regulations to carry out the provisions of **sections 3-13** of this bill, including the fees for the issuance and renewal of permits. The regulations adopted by the State Board are subject to review by the Legislative Committee on Health Care. (NRS 439B.225)

Section 14 of this bill requires the Health Division to conduct annual, unannounced inspections of surgical centers for ambulatory patients.

Existing law requires the holder of a license to practice medicine or osteopathic medicine to submit a report stating the number and types of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his office or certain other facilities. (NRS 630.30665, 633.524) **Sections 19 and 22** 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, inclusive, of this act.

Sec. 3. *As used in sections 3 to 13, 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. 1. *An office of a physician or a facility that provides health care, other than a medical facility, shall obtain a permit pursuant to section 9 of this act before offering to a patient a service of general anesthesia, conscious sedation or deep sedation.*

2. *An office of a physician or a facility that provides health care, other than a medical facility, which operates at more than one location shall obtain a permit for each location where a service of general anesthesia, conscious sedation or deep sedation is offered.*

Sec. 9. 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 13, 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. Upon receipt of an application and the appropriate fee, the Health Division may, after conducting an inspection pursuant to section 11 of this act, issue a permit pursuant to this section.

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

Sec. 10. 1. The holder of a permit issued pursuant to section 9 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.

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

Sec. 11. 1. The Health Division shall, before issuing a permit pursuant to section 9 of this act, and at least annually thereafter, conduct an inspection of each office of a physician or facility that applies for or holds a permit pursuant to sections 3 to 13, inclusive, of this act. The Health Division shall not provide advance notice of an inspection conducted pursuant to this section.

2. 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 office of the physician or the facility where the inspection was conducted.

3. If a deficiency is indicated in the report, 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 13 of this act.

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

(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 inspections deemed necessary by the Legislative Committee on Health Care or the Legislative Commission.

Sec. 12. 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 13, inclusive, of this act, or the regulations adopted pursuant thereto, or fails to correct a



1 *deficiency indicated in a report pursuant to section 11 of this act,*
2 *the Health Division, in accordance with the regulations adopted*
3 *pursuant to section 13 of this act, may take any of the following*
4 *actions:*

- 5 (a) *Decline to issue or renew a permit;*
- 6 (b) *Suspend or revoke a permit; or*
- 7 (c) *Impose an administrative penalty of not more than \$1,000*
8 *per day for each violation, together with interest thereon at a rate*
9 *not to exceed 10 percent per annum.*

10 2. *The Health Division may review a report submitted*
11 *pursuant to NRS 630.30665 or 633.524 to determine whether an*
12 *office of a physician or a facility is in violation of the provisions of*
13 *sections 3 to 13, inclusive, of this act or the regulations adopted*
14 *pursuant thereto. If the Health Division determines that such a*
15 *violation has occurred, the Health Division shall immediately*
16 *notify the appropriate professional licensing board of the*
17 *physician.*

18 **Sec. 13.** 1. *The Board shall adopt regulations to carry out*
19 *the provisions of sections 3 to 13, inclusive, of this act, including,*
20 *without limitation, regulations prescribing:*

21 (a) *The amount of the fee required for applications for the*
22 *issuance and renewal of a permit pursuant to sections 9 and 10 of*
23 *this act.*

24 (b) *The procedures and standards for the issuance and*
25 *renewal of a permit.*

26 (c) *The procedures and time frame for correcting each*
27 *deficiency indicated in a report pursuant to section 11 of this act.*

28 (d) *The criteria for the imposition of each sanction prescribed*
29 *by section 12 of this act, including, without limitation:*

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

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

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

36 2. *The regulations adopted pursuant to this section must*
37 *require that the practices and policies of each holder of a permit*
38 *issued pursuant to sections 3 to 13, inclusive, of this act provide*
39 *adequately for the protection of the health, safety and well-being*
40 *of patients.*

41 **Sec. 14.** 1. *The Health Division shall, at least annually,*
42 *conduct an unannounced inspection of each surgical center for*
43 *ambulatory patients to ensure compliance with all applicable state*
44 *and federal laws and state and federal regulations and standards.*



1 2. *The Health Division shall annually prepare and submit to*
2 *the Legislative Committee on Health Care and the Legislative*
3 *Commission a report which must include:*

4 (a) *The number and frequency of inspections of surgical*
5 *centers for ambulatory patients conducted pursuant to this chapter*
6 *or the regulations adopted pursuant thereto;*

7 (b) *A summary of deficiencies or other significant problems*
8 *discovered while conducting such inspections and the results of*
9 *any follow-up inspections; and*

10 (c) *Any other information relating to inspections of surgical*
11 *centers for ambulatory patients deemed necessary by the*
12 *Legislative Committee on Health Care or the Legislative*
13 *Commission.*

14 **Sec. 15.** NRS 233B.063 is hereby amended to read as follows:

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

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

41 3. An agency may adopt a temporary regulation between
42 August 1 of an even-numbered year and July 1 of the succeeding
43 odd-numbered year without following the procedure required by this
44 section and NRS 233B.064, but any such regulation expires by
45 limitation on November 1 of the odd-numbered year. A



1 substantively identical permanent regulation may be subsequently
2 adopted.

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

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

9 233B.070 1. A permanent regulation becomes effective when
10 the Legislative Counsel files with the Secretary of State the original
11 of the final draft or revision of a regulation, except as otherwise
12 provided in NRS 293.247 or where a later date is specified in the
13 regulation.

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

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

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

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

39 6. Immediately after each permanent or temporary regulation is
40 filed, the agency shall deliver one copy of the final draft or revision,
41 bearing the stamp of the Secretary of State indicating that it has
42 been filed, including material adopted by reference which is not
43 already filed with the State Library and Archives Administrator, to
44 the State Library and Archives Administrator for use by the public.
45 If the agency is a licensing board as defined in NRS 439B.225 and it



1 has adopted a permanent regulation relating to standards for
2 ~~[licensing]~~ *the issuance or renewal of licenses, permits* or
3 *certificates of* registration ~~[or for the renewal of a license or a~~
4 ~~certificate of registration]~~ issued to a person or facility regulated by
5 the agency, the agency shall also deliver one copy of the regulation,
6 bearing the stamp of the Secretary of State, to the Legislative
7 Committee on Health Care within 10 days after the regulation is
8 filed with the Secretary of State.

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

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

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

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

27 *(a) In an office of a physician or osteopathic physician which*
28 *holds a permit pursuant to sections 3 to 13, inclusive, of this act;*

29 *(b) In a facility which holds a permit pursuant to sections 3 to*
30 *13, inclusive, of this act;*

31 *(c) In a medical facility as that term is defined in NRS*
32 *449.0151; or*

33 *(d) Outside of this State.*

34 *2. As used in this section:*

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

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

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

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

42 630.306 The following acts, among others, constitute grounds
43 for initiating disciplinary action or denying licensure:



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

4 2. Engaging in any conduct:

5 (a) Which is intended to deceive;

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

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

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

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

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

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

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

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

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

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

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

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

40 ***13. Failure to comply with the requirements of section 17 of***
41 ***this act.***

42 **Sec. 19.** NRS 630.30665 is hereby amended to read as
43 follows:

44 630.30665 1. The Board shall require each holder of a license
45 to practice medicine to submit annually to the Board, on a form



1 provided by the Board, a report stating the number and type of
2 surgeries requiring conscious sedation, deep sedation or general
3 anesthesia performed by the holder of the license at his office or any
4 other facility, excluding any surgical care performed:

5 (a) At a medical facility as that term is defined in NRS
6 449.0151; or

7 (b) Outside of this State.

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

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

23 4. The Board shall:

24 (a) Collect and maintain reports received pursuant to subsections
25 1 and 2; ~~{and}~~

26 (b) Ensure that the reports, and any additional documents
27 created from the reports, are protected adequately from fire, theft,
28 loss, destruction and other hazards, and from unauthorized access ~~{;}~~
29 *; and*

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

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

38 6. The provisions of this section do not apply to surgical care
39 requiring only the administration of oral medication to a patient to
40 relieve the patient's anxiety or pain, if the medication is not given in
41 a dosage that is sufficient to induce in a patient a controlled state of
42 depressed consciousness or unconsciousness similar to general
43 anesthesia, deep sedation or conscious sedation.

44 7. In addition to any other remedy or penalty, if a holder of a
45 license to practice medicine fails to submit a report or knowingly



1 files false information in a report submitted pursuant to this section,
2 the Board may, after providing the holder of a license to practice
3 medicine with notice and opportunity for a hearing, impose against
4 the holder of a license to practice medicine an administrative
5 penalty for each such violation. The Board shall establish by
6 regulation a sliding scale based on the severity of the violation to
7 determine the amount of the administrative penalty to be imposed
8 against the holder of the license pursuant to this subsection. The
9 regulations must include standards for determining the severity of
10 the violation and may provide for a more severe penalty for multiple
11 violations.

12 8. As used in this section:

13 (a) "Conscious sedation" ~~[means a minimally depressed level of~~
14 ~~consciousness, produced by a pharmacologic or nonpharmacologic~~
15 ~~method, or a combination thereof, in which the patient retains the~~
16 ~~ability independently and continuously to maintain an airway and to~~
17 ~~respond appropriately to physical stimulation and verbal~~
18 ~~commands.]~~ *has the meaning ascribed to it in section 4 of this act.*

19 (b) "Deep sedation" ~~[means a controlled state of depressed~~
20 ~~consciousness, produced by a pharmacologic or nonpharmacologic~~
21 ~~method, or a combination thereof, and accompanied by a partial loss~~
22 ~~of protective reflexes and the inability to respond purposefully to~~
23 ~~verbal commands.]~~ *has the meaning ascribed to it in section 5 of*
24 *this act.*

25 (c) "General anesthesia" ~~[means a controlled state of~~
26 ~~unconsciousness, produced by a pharmacologic or~~
27 ~~nonpharmacologic method, or a combination thereof, and~~
28 ~~accompanied by partial or complete loss of protective reflexes and~~
29 ~~the inability independently to maintain an airway and respond~~
30 ~~purposefully to physical stimulation or verbal commands.]~~ *has the*
31 *meaning ascribed to it in section 6 of this act.*

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

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

39 **Sec. 20.** Chapter 633 of NRS is hereby amended by adding
40 thereto a new section to read as follows:

41 *1. An osteopathic physician shall not administer or supervise*
42 *directly the administration of general anesthesia, conscious*
43 *sedation or deep sedation to patients unless the general anesthesia,*
44 *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 13, inclusive, of this act;*

(b) *In a facility which holds a permit pursuant to sections 3 to 13, 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. 21. NRS 633.511 is hereby amended to read as follows:

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

1. Unprofessional conduct.

2. Conviction of:

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

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

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

(d) Murder, voluntary manslaughter or mayhem;

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

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

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

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

(i) Any offense involving moral turpitude.

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

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

5. Professional incompetence.

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

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

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



Sec. 22. 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]~~ 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 reports 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



1 a dosage that is sufficient to induce in a patient a controlled state of
2 depressed consciousness or unconsciousness similar to general
3 anesthesia, deep sedation or conscious sedation.

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

17 8. As used in this section:

18 (a) "Conscious sedation" ~~[means a minimally depressed level of~~
19 ~~consciousness, produced by a pharmacologic or nonpharmacologic~~
20 ~~method, or a combination thereof, in which the patient retains the~~
21 ~~ability independently and continuously to maintain an airway and to~~
22 ~~respond appropriately to physical stimulation and verbal~~
23 ~~commands.]~~ *has the meaning ascribed to it in section 4 of this act.*

24 (b) "Deep sedation" ~~[means a controlled state of depressed~~
25 ~~consciousness, produced by a pharmacologic or nonpharmacologic~~
26 ~~method, or a combination thereof, and accompanied by a partial loss~~
27 ~~of protective reflexes and the inability to respond purposefully to~~
28 ~~verbal commands.]~~ *has the meaning ascribed to it in section 5 of*
29 *this act.*

30 (c) "General anesthesia" ~~[means a controlled state of~~
31 ~~unconsciousness, produced by a pharmacologic or~~
32 ~~nonpharmacologic method, or a combination thereof, and~~
33 ~~accompanied by partial or complete loss of protective reflexes and~~
34 ~~the inability independently to maintain an airway and respond~~
35 ~~purposefully to physical stimulation or verbal commands.]~~ *has the*
36 *meaning ascribed to it in section 6 of this act.*

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

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

44 **Sec. 23.** On or before January 1, 2010, the State Board of
45 Health shall adopt regulations required by section 13 of this act.



- 1 **Sec. 24.** 1. This section and sections 1, 13, 15, 16 and 23 of
2 this act become effective upon passage and approval for the purpose
3 of adopting regulations and on October 1, 2009, for all other
4 purposes.
5 2. Section 14 of this act becomes effective on October 1, 2009.
6 3. Sections 2 to 12, inclusive, and 17 to 22, inclusive, of this
7 act become effective on October 1, 2010.

