

ASSEMBLY BILL NO. 62—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED DECEMBER 15, 2010

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to the Office of the Attorney General. (BDR 18-202)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

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

AN ACT relating to the Office of the Attorney General; authorizing the Attorney General to charge a fee for the prosecution of certain cases; authorizing the Attorney General to charge the office of a district attorney or city attorney a fee for issuing a written opinion; authorizing the Attorney General to charge a regulatory body for certain training services provided by the Attorney General; authorizing the Attorney General to charge the Board of Homeopathic Medical Examiners, the State Board of Oriental Medicine and the Board of Psychological Examiners for all services relating to certain investigations conducted by the Attorney General; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Attorney General to prosecute a criminal case upon the request of a district attorney and requires the Attorney General to issue a written opinion upon the request of a district attorney or city attorney. (NRS 228.130, 228.150) **Section 1** of this bill authorizes the Attorney General to charge a county reasonable legal fees for the prosecution of a criminal case, and **section 2** of this bill authorizes the Attorney General to charge the office of a district attorney or city attorney a reasonable fee for issuing a written opinion.

Existing law requires the Attorney General to provide training to a new member of a regulatory body. (NRS 622.200) **Section 3** of this bill authorizes the Attorney General to charge a regulatory body for providing training to a new member of a regulatory body.



Existing law requires the Board of Homeopathic Medical Examiners, the State Board of Oriental Medicine and the Board of Psychological Examiners to transmit to the Attorney General complaints concerning certain persons regulated by those boards. Existing law further requires the Attorney General to investigate each such complaint. (NRS 630A.400, 630A.410, 634A.085, 641.270, 641.271) **Section 4** of this bill authorizes the Board of Homeopathic Medical Examiners to retain the Attorney General to investigate a complaint against a homeopathic physician, and **section 5** of this bill authorizes the Attorney General to charge the Board for all services related to the investigation. **Section 6** of this bill authorizes the State Board of Oriental Medicine to retain the Attorney General to investigate a complaint against a doctor of Oriental medicine and authorizes the Attorney General to charge the Board for all services related to the investigation. **Section 7** of this bill authorizes the Board of Psychological Examiners to retain the Attorney General to investigate a complaint against a psychologist, and **section 8** of this bill authorizes the Attorney General to charge the Board for all services related to the investigation.

Existing law requires the Board of Dispensing Opticians to submit a biennial report to the Attorney General. (NRS 637.080) **Section 9** of this bill repeals the provision requiring the Board of Dispensing Opticians to submit a biennial report to the Attorney General.

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

Section 1. NRS 228.130 is hereby amended to read as follows:

228.130 1. In all criminal cases where, in the judgment of the district attorney, the personal presence of the Attorney General or the presence of a deputy or special investigator is required in cases mentioned in subsection 2, before making a request upon the Attorney General for such assistance the district attorney must first present his or her reasons for making the request to the board of county commissioners of his or her county and have the board adopt a resolution joining in the request to the Attorney General.

2. In all criminal cases where help is requested from the Attorney General's Office, as mentioned in subsection 1, in the presentation of criminal cases before a committing magistrate, grand jury, or district court, the board of county commissioners of the county making such request shall, upon the presentation to the board of a duly verified claim setting forth the expenses incurred, pay from the general funds of the county the actual and necessary traveling expenses of the Attorney General or his or her deputy or his or her special investigator from Carson City, Nevada, to the place where such proceedings are held and return therefrom, and also pay the amount of money actually expended by such person for board and lodging from the date such person leaves until the date he or she returns to Carson City.

3. This section shall not be construed as directing or requiring the Attorney General to appear in any proceedings mentioned in



1 subsection 2, but in acting upon any such request the Attorney
2 General may exercise his or her discretion, and his or her judgment
3 in such matters ~~{shall be}~~ is final.

4 *4. In addition to any payment of expenses pursuant to*
5 *subsection 2, the Attorney General may charge a reasonable fee*
6 *for legal services provided pursuant to this section. The fee must*
7 *be charged for services on an hourly basis in an amount sufficient*
8 *to pay the salary and other expenses of the deputy attorney general*
9 *who provides the services.*

10 **Sec. 2.** NRS 228.150 is hereby amended to read as follows:

11 228.150 1. When requested, the Attorney General shall give
12 his or her opinion, in writing, upon any question of law, to the
13 Governor, the Secretary of State, the State Controller, the State
14 Treasurer, the Director of the Department of Corrections, to the
15 head of any state department, agency, board or commission, to any
16 district attorney and to any city attorney of any incorporated city
17 within the State of Nevada, upon any question of law relating to
18 their respective offices, departments, agencies, boards or
19 commissions.

20 2. Nothing contained in subsection 1 requires the Attorney
21 General to give his or her written opinion to any city attorney
22 concerning questions relating to the interpretation or construction of
23 city ordinances.

24 3. ~~{The}~~ *Except as otherwise provided in this section, the*
25 *Attorney General is not entitled to receive any fee for the*
26 *performance of any duty required of him or her by law, but money*
27 *may be paid to his or her office or pursuant to law or an agreement*
28 *with an agency of the State for the performance of any duty or*
29 *service by his or her office.*

30 *4. The Attorney General may charge the office of a district*
31 *attorney or city attorney a reasonable fee for providing a written*
32 *opinion pursuant to subsection 1. The fee must be charged for*
33 *services on an hourly basis in an amount sufficient to pay the*
34 *salary and other expenses of the deputy attorney general who*
35 *provides the services.*

36 **Sec. 3.** NRS 622.200 is hereby amended to read as follows:

37 622.200 1. As soon as practicable after a person is first
38 appointed to serve as a member of a regulatory body, the person
39 must be provided with:

40 ~~{1-}~~ (a) A written summary of the duties and responsibilities of
41 a member of the regulatory body; and

42 ~~{2-}~~ (b) Training on those duties and responsibilities by the
43 Attorney General. The training must include, without limitation,
44 instruction related to the audit that is required by NRS 218G.400,
45 except that a person who is a member of the Nevada State Board of



Accountancy is not required to be provided with instruction related to that audit.

2. The Attorney General may, in accordance with the provisions of NRS 228.113, charge a regulatory body for all training provided pursuant to paragraph (b) of subsection 1.

Sec. 4. NRS 630A.400 is hereby amended to read as follows:

630A.400 1. The Board or a committee of its members designated by the Board shall review every complaint filed with the Board and conduct an investigation to determine whether there is a reasonable basis for compelling a homeopathic physician to take a mental or physical examination or an examination of his or her competence to practice homeopathic medicine.

2. If a committee is designated, it must be composed of at least three members of the Board, at least one of whom is a licensed homeopathic physician.

3. If, from the complaint or from other official records, it appears that the complaint is not frivolous and the complaint charges gross or repeated malpractice, the Board ~~shall~~ **may:**

(a) Retain the Attorney General to investigate the complaint; and

(b) If the Board retains the Attorney General, transmit the original complaint, along with further facts or information derived from its own review, to the Attorney General.

4. Following ~~the~~ **an** investigation, the committee shall present its evaluation and recommendations to the Board. The Board shall review the committee's findings to determine whether to take any further action, but a member of the Board who participated in the investigation may not participate in this review or in any subsequent hearing or action taken by the Board.

Sec. 5. NRS 630A.410 is hereby amended to read as follows:

630A.410 1. ~~The~~ **If the Board retains the Attorney General pursuant to NRS 630A.400, the** Attorney General shall conduct an investigation of ~~each~~ **the** complaint transmitted to the Attorney General to determine whether it warrants proceedings for modification, suspension or revocation of license. If the Attorney General determines that such further proceedings are warranted, the Attorney General shall report the results of the investigation together with a recommendation to the Board in a manner which does not violate the right of the person charged in the complaint to due process in any later hearing before the Board.

2. The Board shall promptly make a determination with respect to each complaint reported to it by the Attorney General as to what action shall be pursued. The Board shall:

(a) Dismiss the complaint; or

(b) Proceed with appropriate disciplinary action.



1 **3. If the Board retains the Attorney General pursuant to NRS**
2 **630A.400, the Attorney General may, in accordance with the**
3 **provisions of NRS 228.113, charge the Board for all services**
4 **relating to the investigation of a complaint.**

5 **Sec. 6.** NRS 634A.085 is hereby amended to read as follows:

6 634A.085 1. If a written complaint regarding a ~~licensee~~
7 **doctor of Oriental medicine** is filed with the Board, the Board shall
8 review the complaint. If, from the complaint or from other records,
9 it appears that the complaint is not frivolous, the Board ~~shall~~ **may:**

10 **(a) Retain the Attorney General to investigate the complaint;**
11 **and**

12 **(b) If the Board retains the Attorney General,** transmit the
13 original complaint and any facts or information obtained from the
14 review to the Attorney General.

15 2. ~~The~~ **If the Board retains the Attorney General, the**
16 Attorney General shall conduct an investigation of the complaint
17 **transmitted to the Attorney General** to determine whether it
18 warrants proceedings for the modification, suspension or revocation
19 of the license. If the Attorney General determines that further
20 proceedings are warranted, the Attorney General shall report the
21 results of the investigation and any recommendation to the Board.

22 3. The Board shall promptly make a determination with respect
23 to each complaint reported to it by the Attorney General. The Board
24 shall:

25 (a) Dismiss the complaint; or

26 (b) Proceed with appropriate disciplinary action.

27 4. The Board shall retain all complaints received by the Board
28 pursuant to this section for at least 10 years, including, without
29 limitation, any complaints not acted upon.

30 **5. If the Board retains the Attorney General, the Attorney**
31 **General may, in accordance with the provisions of NRS 228.113,**
32 **charge the Board for all services relating to the investigation of a**
33 **complaint pursuant to subsection 2.**

34 **Sec. 7.** NRS 641.270 is hereby amended to read as follows:

35 641.270 When a complaint is filed with the Board, it shall
36 review the complaint. If, from the complaint or from other official
37 records, it appears that the complaint is not frivolous, the Board
38 ~~shall~~ **may:**

39 **1. Retain the Attorney General to investigate the complaint;**
40 **and**

41 **2. If the Board retains the Attorney General,** transmit the
42 original complaint, along with further facts or information derived
43 from the review, to the Attorney General.



- 1 **Sec. 8.** NRS 641.271 is hereby amended to read as follows:
2 641.271 1. ~~{The}~~ *If the Board retains the Attorney General*
3 *pursuant to NRS 641.270, the* Attorney General shall conduct an
4 investigation of ~~{each}~~ a complaint transmitted to ~~{him or her by the~~
5 ~~Board}~~ *the Attorney General* to determine whether it warrants
6 proceedings for the modification, suspension or revocation of the
7 license. If the Attorney General determines that further proceedings
8 are warranted, he or she shall report the results of the investigation
9 together with a recommendation to the Board in a manner which
10 does not violate the right of the person charged in the complaint to
11 due process in any later hearing on the complaint.
12 2. The Board shall promptly make a determination with respect
13 to each complaint reported to it by the Attorney General. The Board
14 shall:
15 (a) Dismiss the complaint; or
16 (b) Proceed with appropriate disciplinary action.
17 3. *If the Board retains the Attorney General pursuant to NRS*
18 *641.270, the Attorney General may, in accordance with the*
19 *provisions of NRS 228.113, charge the Board for all services*
20 *relating to the investigation of a complaint pursuant to*
21 *subsection 1.*
22 **Sec. 9.** NRS 637.080 is hereby repealed.
23 **Sec. 10.** This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTION

637.080 Report of Board to Attorney General. Before September 1 of each even-numbered year, for the biennium ending June 30 of such year, the Board shall submit to the Attorney General a written report. The report must include:

1. The names of all dispensing opticians to whom licenses have been granted as provided in this chapter.
 2. Any cases heard and decisions rendered by the Board.
 3. The recommendations of the Board as to future policies.
- ↪ Each member of the Board shall review and sign the report before it is submitted to the Attorney General.

