

Amendment No. 269

Senate Amendment to Senate Bill No. 168 (BDR 54-837)

Proposed by: Senate Committee on Commerce, Labor and Energy

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will REMOVE the 2/3s majority vote requirement from S.B. 168.

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 underlining* is newly added transitory language.

MSN/TMC



Date: 4/18/2011

S.B. No. 168—Makes various changes concerning public health. (BDR 54-837)



SENATE BILL NO. 168—SENATORS HARDY; AND GUSTAVSON

FEBRUARY 17, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Makes various changes concerning public health. (BDR 54-837)

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

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

AN ACT relating to public health; revising provisions governing access to certain medical records; requiring a physician or an osteopathic physician who performs an autopsy to submit a written report of the findings of the autopsy to the Board of Medical Examiners or the State Board of Osteopathic Medicine in certain circumstances; revising provisions governing the submission of certain reports concerning surgeries requiring conscious sedation, deep sedation or general anesthesia; revising provisions governing reports to the Board of Medical Examiners and the State Board of Osteopathic Medicine of a change in the privileges of ~~a physician, perfusionist, physician assistant or practitioner of respiratory~~ certain providers of health care; revising provisions governing the standard of proof in any disciplinary hearing before the Board ~~revising provisions governing access to and the data collected by the computerized program to track prescriptions of controlled substances developed by the State Board of Pharmacy and the Investigation Division of the Department of Public Safety; increasing certain fees;~~ of Medical Examiners; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides that if the health care records of a patient are located within this State, a provider of health care must make the records available for physical inspection within 5 working days after they are requested.

Section 2 of this bill requires a physician who performs an autopsy and who determines that the death of the decedent is the result of an overdose of a controlled substance or dangerous drug to submit a written report of such findings to the Board of Medical Examiners. **Section 2** also requires the Board, upon receipt of such a report, to investigate the death of the decedent to determine whether the conduct of any physician contributed to the death. **Section 18 of this bill imposes similar requirements concerning an autopsy performed by an osteopathic physician.**

Existing law requires any hospital, clinic or other medical facility or medical society to report to the Board of Medical Examiners any change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care while the person is under investigation and the outcome of any disciplinary action taken within 30 days after the change

in privileges is made or disciplinary action is taken. A hospital, clinic or other medical facility or medical society is also required to report such information to the State Board of Osteopathic Medicine concerning a change in the privileges of an osteopathic physician who is under investigation. (NRS 630.307 ~~HH~~, 633.533) Section 8 of this bill requires that such a report concerning a change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care be made within 5 days after the change in privileges is made if the change in privileges is based on an investigation of the mental, medical or psychological competency of the person or suspected or alleged substance abuse by the person. Section 21 of this bill imposes similar reporting requirements concerning a change in the privileges of a physician assistant who is under investigation and a change in the privileges of an osteopathic physician or physician assistant if the change in privileges is based on an investigation of the mental, medical or psychological competency of the osteopathic physician or physician assistant or suspected or alleged substance abuse by the osteopathic physician or physician assistant.

Section 10 of this bill provides that in any disciplinary hearing before the Board of Medical Examiners, a finding of the Board must be supported by a preponderance of the evidence.

~~[Section 17 of this bill requires that the computerized program to track prescriptions of controlled substances developed by the State Board of Pharmacy and the Investigation Division of the Department of Public Safety be designed to provide information regarding data relating to the prescribing of controlled substances that is specific to a particular patient. Section 17 also requires the Board and the Division to monitor the prescription activity of prescribing practitioners and further provides that access to the information concerning particular patients must be restricted only to certain persons for the purpose of confirming the accuracy of the information after notice from the Board to a prescribing practitioner concerning the number of prescriptions written by the practitioner.]~~

Existing law requires persons who are licensed to practice medicine by the Board of Medical Examiners and persons who are licensed to practice osteopathic medicine by the State Board of Osteopathic Medicine to make certain reports concerning surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license and the occurrence of any sentinel events arising from those surgeries. Persons who are licensed to practice medicine are required to submit the reports to the Board of Medical Examiners and persons who are licensed to practice osteopathic medicine are required to submit the reports to the State Board of Osteopathic Medicine. The boards are required to submit the reports to the Health Division of the Department of Health and Human Services which then reviews the reports. (NRS 449.447, 630.30665, 633.524) ~~[Section 18 of this bill repeals the provision which requires the Board of Medical Examiners to collect and submit the reports, and section 12 of this bill instead requires persons who are licensed to practice medicine to submit the reports directly to the Health Division.]~~

~~Section 5 of this bill increases the maximum amount of the fee that may be charged for the renewal of a limited, restricted, authorized facility or special license from \$400 to \$800.]~~

Section 7.5 of this bill revises these reporting requirements as they pertain to a physician and requires a physician to report the occurrence of any sentinel event arising from a surgery requiring conscious sedation, deep sedation or general anesthesia within 14 days after the occurrence of the sentinel event. Section 20 of this bill imposes a similar reporting requirement on an osteopathic physician.

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

Section 1. NRS 629.061 is hereby amended to read as follows:
629.061 1. Each provider of health care shall make the health care records of a patient available for physical inspection by:
(a) The patient or a representative with written authorization from the patient;
(b) The personal representative of the estate of a deceased patient;
(c) Any trustee of a living trust created by a deceased patient;

(d) The parent or guardian of a deceased patient who died before reaching the age of majority;

(e) An investigator for the Attorney General or a grand jury investigating an alleged violation of NRS 200.495, 200.5091 to 200.50995, inclusive, or 422.540 to 422.570, inclusive;

(f) An investigator for the Attorney General investigating an alleged violation of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive, or any fraud in the administration of chapter 616A, 616B, 616C, 616D or 617 of NRS or in the provision of benefits for industrial insurance; or

(g) Any authorized representative or investigator of a state licensing board during the course of any investigation authorized by law.

➤ The records must be made available at a place within the depository convenient for physical inspection. ~~[and inspection must be permitted at all reasonable office hours and for a reasonable length of time.]~~ *If the records are located within this State, the provider shall make any records requested pursuant to this section available for inspection within 5 working days after the request.* If the records are located outside this State, the provider shall make any records requested pursuant to this section available in this State for inspection within 10 working days after the request.

2. Except as otherwise provided in subsection 3, the provider of health care shall also furnish a copy of the records to each person described in subsection 1 who requests it and pays the actual cost of postage, if any, the costs of making the copy, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy.

3. The provider of health care shall also furnish a copy of any records that are necessary to support a claim or appeal under any provision of the Social Security Act, 42 U.S.C. §§ 301 et seq., or under any federal or state financial needs-based benefit program, without charge, to a patient, or a representative with written authorization from the patient, who requests it, if the request is accompanied by documentation of the claim or appeal. A copying fee, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes, may be charged by the provider of health care for furnishing a second copy of the records to support the same claim or appeal. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy. The provider of health care shall furnish the copy of the records requested pursuant to this subsection within 30 days after the date of receipt of the request, and the provider of health care shall not deny the furnishing of a copy of the records pursuant to this subsection solely because the patient is unable to pay the fees established in this subsection.

4. Each person who owns or operates an ambulance in this State shall make the records regarding a sick or injured patient available for physical inspection by:

(a) The patient or a representative with written authorization from the patient;

(b) The personal representative of the estate of a deceased patient;

(c) Any trustee of a living trust created by a deceased patient;

(d) The parent or guardian of a deceased patient who died before reaching the age of majority; or

(e) Any authorized representative or investigator of a state licensing board during the course of any investigation authorized by law.

➤ The records must be made available at a place within the depository convenient for physical inspection, and inspection must be permitted at all reasonable office hours and for a reasonable length of time. The person who owns or operates an

1 ambulance shall also furnish a copy of the records to each person described in this
2 subsection who requests it and pays the actual cost of postage, if any, and the costs
3 of making the copy, not to exceed 60 cents per page for photocopies. No
4 administrative fee or additional service fee of any kind may be charged for
5 furnishing a copy of the records.

6 5. Records made available to a representative or investigator must not be used
7 at any public hearing unless:

8 (a) The patient named in the records has consented in writing to their use; or

9 (b) Appropriate procedures are utilized to protect the identity of the patient
10 from public disclosure.

11 6. Subsection 5 does not prohibit:

12 (a) A state licensing board from providing to a provider of health care or owner
13 or operator of an ambulance against whom a complaint or written allegation has
14 been filed, or to his or her attorney, information on the identity of a patient whose
15 records may be used in a public hearing relating to the complaint or allegation, but
16 the provider of health care or owner or operator of an ambulance and the attorney
17 shall keep the information confidential.

18 (b) The Attorney General from using health care records in the course of a civil
19 or criminal action against the patient or provider of health care.

20 7. A provider of health care or owner or operator of an ambulance and his or
21 her agents and employees are immune from any civil action for any disclosures
22 made in accordance with the provisions of this section or any consequential
23 damages.

24 8. For the purposes of this section:

25 (a) "Guardian" means a person who has qualified as the guardian of a minor
26 pursuant to testamentary or judicial appointment, but does not include a guardian ad
27 litem.

28 (b) "Living trust" means an inter vivos trust created by a natural person:

29 (1) Which was revocable by the person during the lifetime of the person;
30 and

31 (2) Who was one of the beneficiaries of the trust during the lifetime of the
32 person.

33 (c) "Parent" means a natural or adoptive parent whose parental rights have not
34 been terminated.

35 (d) "Personal representative" has the meaning ascribed to it in NRS 132.265.

36 **Sec. 2.** Chapter 630 of NRS is hereby amended by adding thereto a new
37 section to read as follows:

38 *1. Any physician who performs an autopsy in this State and who determines*
39 *that the death of the decedent is the result of an overdose of a controlled*
40 *substance or a dangerous drug shall, within 30 days after making the*
41 *determination, submit to the Board a written report of the findings of the autopsy,*
42 *and provide to the Board any other information requested by the Board.*

43 *2. Upon receipt of a report submitted pursuant to subsection 1, the Board*
44 *shall investigate the death of the decedent to determine whether the conduct of*
45 *any physician contributed to the death of the decedent.*

46 *3. As used in this section, "dangerous drug" has the meaning ascribed to it*
47 *in NRS 454.201.*

48 **Sec. 3.** NRS 630.130 is hereby amended to read as follows:

49 630.130 1. In addition to the other powers and duties provided in this
50 chapter, the Board shall, in the interest of the public, judiciously:

51 (a) Enforce the provisions of this chapter;

52 (b) Establish by regulation standards for licensure under this chapter;

(c) Conduct examinations for licensure and establish a system of scoring for those examinations;

(d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and

(e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against physicians for malpractice or negligence; ~~and~~

(b) Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections 3 and ~~4~~ 6 of NRS 630.307 and NRS 690B.250 and 690B.260 ~~and~~;

(c) Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any.

↪ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

Sec. 4. NRS 630.267 is hereby amended to read as follows:

630.267 1. Each holder of a license to practice medicine must, on or before July 1, *or if July 1 is a Saturday, Sunday or legal holiday, on the next business day after July 1*, of each ~~alternate~~ *odd-numbered* year:

(a) Submit a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against him or her during the previous 2 years.

(b) Pay to the Secretary-Treasurer of the Board the applicable fee for biennial registration. This fee must be collected for the period for which a physician is licensed.

(c) Submit all information required to complete the biennial registration.

2. When a holder of a license fails to pay the fee for biennial registration and submit all information required to complete the biennial registration after they become due, his or her license to practice medicine in this State ~~is automatically suspended.~~ *expires*. The holder may, within 2 years after the date the license ~~is suspended.~~ *expires*, upon payment of twice the amount of the current fee for biennial registration to the Secretary-Treasurer and submission of all information required to complete the biennial registration and after he or she is found to be in good standing and qualified under the provisions of this chapter, be reinstated to practice.

3. The Board shall make such reasonable attempts as are practicable to notify a licensee:

(a) At least once that the fee for biennial registration and all information required to complete the biennial registration are due; and

(b) That his or her license ~~is suspended.~~ *has expired*.

↪ A copy of this notice must be sent to the Drug Enforcement Administration of the United States Department of Justice or its successor agency.

Sec. 5. ~~NRS 630.268 is hereby amended to read as follows:~~

~~630.268 1. The Board shall charge and collect not more than the following fees:~~

1	For application for and issuance of a license to practice as a	
2	physician, including a license by endorsement	\$600
3	For application for and issuance of a temporary, locum tenens,	
4	limited, restricted, authorized facility, special, special purpose	
5	or special event license	400
6	For renewal of a limited, restricted, authorized facility or special	
7	license	[400] 800
8	For application for and issuance of a license as a physician assistant	400
9	For biennial registration of a physician assistant	800
10	For biennial registration of a physician	800
11	For application for and issuance of a license as a perfusionist or	
12	practitioner of respiratory care	400
13	For biennial renewal of a license as a perfusionist	600
14	For biennial registration of a practitioner of respiratory care	600
15	For biennial registration for a physician who is on inactive status	400
16	For written verification of licensure	50
17	For a duplicate identification card	25
18	For a duplicate license	50
19	For computer printouts or labels	500
20	For verification of a listing of physicians, per hour	20
21	For furnishing a list of new physicians	100

2. In addition to the fees prescribed in subsection 1, the Board shall charge and collect necessary and reasonable fees for the expedited processing of a request or for any other incidental service the Board provides.

3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid for by the person or entity requesting the special meeting. Such a special meeting must not be called until the person or entity requesting it has paid a cash deposit with the Board sufficient to defray all expenses of the meeting. **(Deleted by amendment.)**

Sec. 6. NRS 630.2695 is hereby amended to read as follows:

630.2695 1. Each license issued pursuant to NRS 630.2694 expires on July 1, or if July 1 is a Saturday, Sunday or legal holiday, on the next business day after July 1, of every odd-numbered year and may be renewed if, before the license expires, the holder of the license submits to the Board:

- (a) A completed application for renewal on a form prescribed by the Board;
- (b) Proof of completion of the requirements for continuing education prescribed by regulations adopted by the Board pursuant to NRS 630.269; and
- (c) The applicable fee for renewal of the license prescribed by the Board pursuant to NRS 630.2691.

2. A license that expires pursuant to this section not more than 2 years before an application for renewal is made ~~is automatically suspended and~~ may be reinstated only if the applicant:

- (a) Complies with the provisions of subsection 1; and
- (b) Submits to the Board the fees:
 - (1) For the reinstatement of an expired license, prescribed by regulations adopted by the Board pursuant to NRS 630.269; and
 - (2) For each biennium that the license was expired, for the renewal of the license.

3. If a license has been expired for more than 2 years, a person may not renew or reinstate the license but must apply for a new license and submit to the examination required pursuant to NRS 630.2692.

4. The Board shall send a notice of renewal to each licensee not later than 60 days before his or her license expires. The notice must include the amount of the fee for renewal of the license.

Sec. 7. NRS 630.277 is hereby amended to read as follows:

630.277 1. Every person who wishes to practice respiratory care in this State must:

(a) Have a high school diploma or general equivalency diploma;

(b) Complete an educational program for respiratory care which has been approved by the Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation for Respiratory Care or its successor organization;

(c) Pass the examination as an entry-level or advanced practitioner of respiratory care administered by the ~~{Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation}~~ **National Board** for Respiratory Care or its successor organization;

(d) Be certified by the ~~{Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation}~~ **National Board** for Respiratory Care or its successor organization;

(e) Be licensed to practice respiratory care by the Board and have paid the required fee for licensure.

2. Except as otherwise provided in subsection 3, a person shall not:

(a) Practice respiratory care; or

(b) Hold himself or herself out as qualified to practice respiratory care,

➤ in this State without complying with the provisions of subsection 1.

3. Any person who has completed the educational requirements set forth in paragraphs (a) and (b) of subsection 1 may practice respiratory care pursuant to a program of practical training as an intern in respiratory care for not more than 12 months after completing those educational requirements.

Sec. 7.5. 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 or her 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 State Board of Health for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice medicine shall submit the reports required pursuant to subsections 1 and 2 ~~{whether}~~ :

(a) At the time the holder of a license renews his or her license; and

(b) Whether or not the holder of the license 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 9 of NRS 630.306.

4. In addition to the reports required pursuant to subsections 1 and 2, the Board shall require each holder of a license to practice medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from

any surgery described in subsection 1 within 14 days after the occurrence of the sentinel event. The report must be submitted in the manner prescribed by the Board.

5. The Board shall:

(a) Collect and maintain reports received pursuant to subsections 1 ~~and 2~~, 2 and 4;

(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~~ 6.

~~5~~ 6. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1, ~~2 or 4~~ is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

~~6~~ 7. 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~~ 8. 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~~ 9. As used in this section:

(a) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.

(b) "Deep sedation" has the meaning ascribed to it in NRS 449.437.

(c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.

(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. 8. NRS 630.307 is hereby amended to read as follows:

630.307 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, perfusionist, physician assistant or practitioner of respiratory care on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing medicine, perfusion or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. ~~[Any]~~ *Except as otherwise provided in subsection 4, any* hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care to practice while the physician, perfusionist, physician assistant or practitioner of respiratory care is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician, perfusionist, physician assistant or practitioner of respiratory care concerning the care of a patient or the competency of the physician, perfusionist, physician assistant or practitioner of respiratory care within 30 days after the change in privileges is made or disciplinary action is taken.

4. *A hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board within 5 days after a change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care to practice that is based on:*

(a) *An investigation of the mental, medical or psychological competency of the physician, perfusionist, physician assistant or practitioner of respiratory care;*
or

(b) *Suspected or alleged substance abuse in any form by the physician, perfusionist, physician assistant or practitioner of respiratory care.*

5. The Board shall report any failure to comply with ~~[this]~~ subsection 3 or 4 by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than \$10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

~~[4-]~~ 6. The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, perfusionist, physician assistant or practitioner of respiratory care:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

within 45 days after such a finding, judgment or determination is made.

~~[5-]~~ 7. On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection ~~[4-]~~

~~—6-]~~ 6.

8. The Board shall retain all complaints filed with the Board pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.

Sec. 9. NRS 630.336 is hereby amended to read as follows:

630.336 1. Any deliberations conducted or vote taken by the Board or any investigative committee of the Board regarding its ordering of a physician, perfusionist, physician assistant or practitioner of respiratory care to undergo a physical or mental examination or any other examination designated to assist the Board or committee in determining the fitness of a physician, perfusionist,

physician assistant or practitioner of respiratory care are not subject to the requirements of NRS 241.020.

2. Except as otherwise provided in subsection 3 or 4, all applications for a license to practice medicine, perfusion or respiratory care, any charges filed by the Board, financial records of the Board, formal hearings on any charges heard by the Board or a panel selected by the Board, records of such hearings and any order or decision of the Board or panel must be open to the public.

3. Except as otherwise provided in NRS 239.0115, the following may be kept confidential:

(a) Any statement, evidence, credential or other proof submitted in support of or to verify the contents of an application;

(b) Any report concerning the fitness of any person to receive or hold a license to practice medicine, perfusion or respiratory care; and

(c) Any communication between:

(1) The Board and any of its committees or panels; and

(2) The Board or its staff, investigators, experts, committees, panels, hearing officers, advisory members or consultants and counsel for the Board.

4. Except as otherwise provided in subsection 5 and NRS 239.0115, a complaint filed with the Board pursuant to NRS 630.307, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

5. The *formal* complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

6. This section does not prevent or prohibit the Board from communicating or cooperating with any other licensing board or agency or any agency which is investigating a licensee, including a law enforcement agency. Such cooperation may include, without limitation, providing the board or agency with minutes of a closed meeting, transcripts of oral examinations and the results of oral examinations.

Sec. 10. NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because the witness was or is incompetent. ~~Any fact that is the basis of a finding, conclusion or ruling must be based upon the reliable, probative and substantial evidence on the whole record of the matter.~~

2. *A finding of the Board must be supported by a preponderance of the evidence.*

3. Proof of actual injury need not be established.

~~3.~~ 4. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine, perfusion or respiratory care is conclusive evidence of its occurrence.

Sec. 11. ~~NRS 630.373 is hereby amended to read as follows:~~

~~630.373 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 NRS 449.435 to 449.448, inclusive [;], and section 12 of this act;~~

~~(b) In a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive [;], and section 12 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 NRS 449.436;~~
~~(b) "Deep sedation" has the meaning ascribed to it in NRS 449.437;~~
~~(c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.]~~
(Deleted by amendment.)

Sec. 12. ~~[Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Each person who is licensed to practice medicine pursuant to chapter 630 of NRS shall submit annually to the Health Division, on a form provided by the Health Division, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the person at his or her office or any other facility, excluding any surgical care performed:~~

~~(a) At a medical facility; or~~
~~(b) Outside of this State.~~

~~2. In addition to the report required pursuant to subsection 1, each person who is licensed to practice medicine pursuant to chapter 630 of NRS shall submit annually to the Health Division a report 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 for reporting information pursuant to NRS 439.835.~~

~~3. Each person who is licensed to practice medicine pursuant to chapter 630 of NRS shall submit the reports required pursuant to subsections 1 and 2 whether or not the person performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for the Board of Medical Examiners to initiate disciplinary action pursuant to subsection 9 of NRS 630.306.~~

~~4. The Health Division shall:~~

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

~~(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) 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. On or before February 15 of each odd-numbered year, the Health Division shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report of the information reported to the Health Division during the previous biennium pursuant to this section, including, without limitation, the number and types of surgeries performed by each person who is licensed to practice medicine pursuant to chapter 630 of NRS and the occurrence of sentinel events arising from such surgeries, if any. The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.~~

~~7. In addition to any other remedy or penalty, if a person who is licensed to practice medicine pursuant to chapter 630 of NRS fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Health Division may, after providing the person with notice and opportunity~~

~~for a hearing, impose against the person an administrative penalty for each such violation. The Health Division 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 person 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, "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.] (Deleted by amendment.)~~

Sec. 13. ~~[NRS 449.435 is hereby amended to read as follows:
449.435 As used in NRS 449.435 to 449.448, inclusive, and section 12 of this act, unless the context otherwise requires, the words and terms defined in NRS 449.436 to 449.439, inclusive, have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 14. ~~[NRS 449.441 is hereby amended to read as follows:
449.441 The provisions of NRS 449.435 to 449.448, inclusive, and section 12 of this act do not apply to a person who is licensed to practice medicine pursuant to chapter 630 of NRS or to an office of a physician or a facility that provides health care, other than a medical facility, if the person or 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.] (Deleted by amendment.)~~

Sec. 15. ~~[NRS 449.447 is hereby amended to read as follows:
449.447 1. If an office of a physician or a facility that provides health care, other than a medical facility, violates the provisions of NRS 449.435 to 449.448, inclusive, and section 12 of this act or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to NRS 449.446, the Health Division, in accordance with the regulations adopted pursuant to NRS 449.448, 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 or section 12 of this act to determine whether an office of a physician or a facility is in violation of the provisions of NRS 449.435 to 449.448, inclusive, and section 12 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 NRS 449.435 to 449.448, inclusive, and section 12 of this act or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to NRS 449.446, the Health Division may impose administrative sanctions pursuant to NRS 449.462.] (Deleted by amendment.)~~

1 **Sec. 16.** ~~[NRS 449.448 is hereby amended to read as follows:~~
2 ~~449.448 1. The Board shall adopt regulations to carry out the provisions of~~
3 ~~NRS 449.425 to 449.448, inclusive, and section 12 of this act, including, without~~
4 ~~limitation, regulations which:~~

5 ~~(a) Prescribe the amount of the fee required for applications for the issuance~~
6 ~~and renewal of a permit pursuant to NRS 449.443 and 449.444.~~

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

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

11 ~~(1) License to operate a surgical center for ambulatory patients;~~

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

15 ~~(d) Prescribe the procedures and scope of the inspections conducted by the~~
16 ~~Health Division pursuant to NRS 449.446.~~

17 ~~(e) Prescribe the procedures and time frame for correcting each deficiency~~
18 ~~indicated in a report pursuant to NRS 449.446.~~

19 ~~(f) Prescribe the criteria for the imposition of each sanction prescribed by NRS~~
20 ~~449.447, including, without limitation:~~

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

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

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

26 ~~2. The regulations adopted pursuant to this section must require that the~~
27 ~~practices and policies of each holder of a permit to offer to a patient a service of~~
28 ~~general anesthesia, conscious sedation or deep sedation and each holder of a license~~
29 ~~to operate a surgical center for ambulatory patients provide adequately for the~~
30 ~~protection of the health, safety and well-being of patients.]~~ **(Deleted by**
31 ~~amendment.)~~

32 **Sec. 17.** ~~[NRS 453.1545 is hereby amended to read as follows:~~

33 ~~453.1545 1. The Board and the Division shall cooperatively develop a~~
34 ~~computerized program to track each prescription for a controlled substance listed in~~
35 ~~schedule II, III or IV that is filled by a pharmacy that is registered with the Board or~~
36 ~~that is dispensed by a practitioner who is registered with the Board. The program~~
37 ~~must:~~

38 ~~(a) Be designed to provide information regarding:~~

39 ~~(1) The inappropriate use by a patient of controlled substances listed in~~
40 ~~schedules II, III and IV to pharmacies, practitioners and appropriate state agencies~~
41 ~~to prevent the improper or illegal use of those controlled substances; [and]~~

42 ~~(2) Statistical data relating to the use of those controlled substances that is~~
43 ~~not specific to a particular patient [-]; and~~

44 ~~(3) Data relating to the prescribing of controlled substances that is~~
45 ~~specific to a particular patient, access to which is restricted only to those persons~~
46 ~~authorized to access such information for the purposes set forth in subsections 4~~
47 ~~and 5.~~

48 ~~(b) Be administered by the Board, the Division, the Health Division of the~~
49 ~~Department and various practitioners, representatives of professional associations~~
50 ~~for practitioners, representatives of occupational licensing boards and prosecuting~~
51 ~~attorneys selected by the Board and the Division.~~

52 ~~(c) Not infringe on the legal use of a controlled substance for the management~~
53 ~~of severe or intractable pain.~~

~~(d) Include the contact information of each person who elects to access the database of the program pursuant to subsection 2, including, without limitation:~~

~~(1) The name of the person;~~

~~(2) The physical address of the person;~~

~~(3) The telephone number of the person; and~~

~~(4) If the person maintains an electronic mail address, the electronic mail address of the person.~~

~~2. The Board shall provide Internet access to the database of the program established pursuant to subsection 1 to each practitioner who is authorized to write prescriptions for and each person who is authorized to dispense controlled substances listed in schedule II, III or IV who:~~

~~(a) Elects to access the database of the program; and~~

~~(b) Completes the course of instruction described in subsection [6.] 8.~~

~~3. A practitioner who is provided with Internet access pursuant to subsection 2 must, for the purposes of complying with the provisions of subsection 5, be provided access to information specific to the prescriptions written by the practitioner, including, without limitation, the name of each patient for whom the practitioner has written a prescription and, for each such patient:~~

~~(a) The date on which the prescription was written by the practitioner;~~

~~(b) The name, dosage and amount of the controlled substance prescribed by the practitioner; and~~

~~(c) The number of refills authorized and filled for the controlled substance prescribed by the practitioner.~~

~~4. The Board and the Division must have access to the program established pursuant to subsection 1 to identify any suspected fraudulent or illegal activity related to the dispensing of controlled substances.~~

~~[4.] 5. The Board and the Division shall access the program established pursuant to subsection 1 to monitor the prescription activity of practitioners authorized to write prescriptions for controlled substances listed in schedule II, III or IV, and to tabulate and compare the number of prescriptions written monthly by each practitioner in a particular medical specialty or other category established by the Board for this purpose. When the number of prescriptions written in a month by any practitioner exceeds the monthly average of 95 percent of the other practitioners in that specialty or category, the Board shall notify the practitioner in writing and via electronic mail, if available. Within 10 days after receiving notice from the Board, the practitioner shall:~~

~~(a) Review the information described in subsection 3 to determine the accuracy of the information; and~~

~~(b) Submit written notice to the Board, on a form approved by the Board, of the accuracy of the information or identifying any inaccuracies in the information.~~

~~6. The Board or the Division shall report any activity it reasonably suspects may be fraudulent or illegal to the appropriate law enforcement agency or occupational licensing board and provide the law enforcement agency or occupational licensing board with the relevant information obtained from the program for further investigation.~~

~~[5.] 7. Information obtained from the program relating to a practitioner or a patient is confidential and, except as otherwise provided by this section and NRS 239.0115, must not be disclosed to any person. That information must be disclosed:~~

~~(a) Upon the request of a person about whom the information requested concerns or upon the request on behalf of that person by his or her attorney; or~~

~~(b) Upon the lawful order of a court of competent jurisdiction.~~

~~[6.] 8. The Board and the Division shall cooperatively develop a course of training for persons who elect to access the database of the program pursuant to subsection 2 and require each such person to complete the course of training before the person is provided with Internet access to the database pursuant to subsection 2.~~

~~[7.] 9. The Board and the Division may apply for any available grants and accept any gifts, grants or donations to assist in developing and maintaining the program required by this section. (Deleted by amendment.)~~

Sec. 18. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any osteopathic physician who performs an autopsy in this State and who determines that the death of the decedent is the result of an overdose of a controlled substance or a dangerous drug shall, within 30 days after making the determination, submit to the Board a written report of the findings of the autopsy, and provide to the Board any other information requested by the Board.

2. Upon receipt of a report submitted pursuant to subsection 1, the Board shall investigate the death of the decedent to determine whether the conduct of any osteopathic physician contributed to the death of the decedent.

3. As used in this section, "dangerous drug" has the meaning ascribed to it in NRS 454.201.

Sec. 19. NRS 633.286 is hereby amended to read as follows:

633.286 1. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against osteopathic physicians for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 633.526, 633.527, subsections 3 and ~~4~~ 6 of NRS 633.533 and NRS 690B.250 and 690B.260; and

(c) Information reported to the Board during the previous biennium pursuant to NRS 633.524, including, without limitation, the number and types of surgeries performed by each holder of a license to practice osteopathic medicine and the occurrence of sentinel events arising from such surgeries, if any.

2. The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

Sec. 20. 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 or her 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 State Board of Health for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice osteopathic medicine shall submit the reports required pursuant to subsections 1 and 2 ~~whether~~ :

1 (a) At the time the holder of the license renews his or her license; and
2 (b) Whether or not the holder of the license performed any surgery described
3 in subsection 1. Failure to submit a report or knowingly filing false information in a
4 report constitutes grounds for initiating disciplinary action pursuant to NRS
5 633.511.

6 4. In addition to the reports required pursuant to subsections 1 and 2, the
7 Board shall require each holder of a license to practice osteopathic medicine to
8 submit a report to the Board concerning the occurrence of any sentinel event
9 arising from any surgery described in subsection 1 within 14 days after the
10 occurrence of the sentinel event. The report must be submitted in the manner
11 prescribed by the Board.

12 5. The Board shall:

13 (a) Collect and maintain reports received pursuant to subsections 1 ~~and 2~~, 2
14 and 4;

15 (b) Ensure that the reports, and any additional documents created from the
16 reports, are protected adequately from fire, theft, loss, destruction and other
17 hazards, and from unauthorized access; and

18 (c) Submit to the Health Division a copy of the report submitted pursuant to
19 subsection 1. The Health Division shall maintain the confidentiality of such reports
20 in accordance with subsection ~~5~~ 6.

21 ~~5~~ 6. Except as otherwise provided in NRS 239.0115, a report received
22 pursuant to subsection 1, ~~or~~ 2 or 4 is confidential, not subject to subpoena or
23 discovery, and not subject to inspection by the general public.

24 ~~6~~ 7. The provisions of this section do not apply to surgical care requiring
25 only the administration of oral medication to a patient to relieve the patient's
26 anxiety or pain, if the medication is not given in a dosage that is sufficient to induce
27 in a patient a controlled state of depressed consciousness or unconsciousness
28 similar to general anesthesia, deep sedation or conscious sedation.

29 ~~7~~ 8. In addition to any other remedy or penalty, if a holder of a license to
30 practice osteopathic medicine fails to submit a report or knowingly files false
31 information in a report submitted pursuant to this section, the Board may, after
32 providing the holder of a license to practice osteopathic medicine with notice and
33 opportunity for a hearing, impose against the holder of a license an administrative
34 penalty for each such violation. The Board shall establish by regulation a sliding
35 scale based on the severity of the violation to determine the amount of the
36 administrative penalty to be imposed against the holder of the license to practice
37 osteopathic medicine. The regulations must include standards for determining the
38 severity of the violation and may provide for a more severe penalty for multiple
39 violations.

40 ~~8~~ 9. As used in this section:

- 41 (a) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.
42 (b) "Deep sedation" has the meaning ascribed to it in NRS 449.437.
43 (c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.
44 (d) "Health Division" has the meaning ascribed to it in NRS 449.009.
45 (e) "Sentinel event" means an unexpected occurrence involving death or
46 serious physical or psychological injury or the risk thereof, including, without
47 limitation, any process variation for which a recurrence would carry a significant
48 chance of serious adverse outcome. The term includes loss of limb or function.

49 **Sec. 21. NRS 633.533 is hereby amended to read as follows:**

50 633.533 1. Except as otherwise provided in subsection 2, any person may
51 file with the Board a complaint against an osteopathic physician or physician
52 assistant on a form provided by the Board. The form may be submitted in writing
53 or electronically. If a complaint is submitted anonymously, the Board may accept

1 the complaint but may refuse to consider the complaint if the lack of the identity of
2 the complainant makes processing the complaint impossible or unfair to the person
3 who is the subject of the complaint.

4 2. Any licensee, medical school or medical facility that becomes aware that a
5 person practicing osteopathic medicine in this State has, is or is about to become
6 engaged in conduct which constitutes grounds for initiating disciplinary action shall
7 file a written complaint with the Board within 30 days after becoming aware of the
8 conduct.

9 3. ~~Any~~ Except as otherwise provided in subsection 4, any hospital, clinic or
10 other medical facility licensed in this State, or medical society, shall report to the
11 Board any change in ~~an osteopathic physician's~~ the privileges of an osteopathic
12 physician or physician assistant to practice ~~osteopathic medicine~~ while the
13 osteopathic physician or physician assistant is under investigation and the outcome
14 of any disciplinary action taken by that facility or society against the osteopathic
15 physician or physician assistant concerning the care of a patient or the competency
16 of the osteopathic physician or physician assistant within 30 days after the change
17 in privileges is made or disciplinary action is taken.

18 4. A hospital, clinic or other medical facility licensed in this State, or
19 medical society, shall report to the Board within 5 days after a change in the
20 privileges of an osteopathic physician or physician assistant that is based on:

21 (a) An investigation of the mental, medical or psychological competency of
22 the osteopathic physician or physician assistant; or

23 (b) Suspected or alleged substance abuse in any form by the osteopathic
24 physician or physician assistant.

25 5. The Board shall report any failure to comply with ~~this~~ subsection 3 or 4
26 by a hospital, clinic or other medical facility licensed in this State to the Health
27 Division of the Department of Health and Human Services. If, after a hearing, the
28 Health Division determines that any such facility or society failed to comply with
29 the requirements of this subsection, the Division may impose an administrative fine
30 of not more than \$10,000 against the facility or society for each such failure to
31 report. If the administrative fine is not paid when due, the fine must be recovered in
32 a civil action brought by the Attorney General on behalf of the Division.

33 ~~44~~ 6. The clerk of every court shall report to the Board any finding,
34 judgment or other determination of the court that an osteopathic physician or
35 physician assistant:

- 36 (a) Is a person with mental illness;
37 (b) Is a person with mental incompetence;
38 (c) Has been convicted of a felony or any law governing controlled substances
39 or dangerous drugs;
40 (d) Is guilty of abuse or fraud under any state or federal program providing
41 medical assistance; or
42 (e) Is liable for damages for malpractice or negligence,

43 within 45 days after such a finding, judgment or determination is made.

44 ~~54~~ 7. On or before January 15 of each year, the clerk of every court shall
45 submit to the Office of Court Administrator created pursuant to NRS 1.320 a
46 written report compiling the information that the clerk reported during the previous
47 year to the Board regarding osteopathic physicians pursuant to paragraph (e) of
48 subsection ~~44~~ 6.

49 ~~Sec. 18.~~ Sec. 22. ~~NRS 630.30665 is hereby repealed.~~

~~TEXT OF REPEALED SECTION~~

~~630.30665 Physician required to report certain information concerning surgeries; effect of failure to report; duties of Board; confidentiality of report; applicability.~~

~~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 or her 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 State Board of Health for reporting information pursuant to NRS 439.835.~~

~~3. Each holder of a license to practice medicine shall submit the reports required pursuant to subsections 1 and 2 whether or not the holder of the license 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 9 of NRS 630.206.~~

~~4. The Board shall:~~

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

~~(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" has the meaning ascribed to it in NRS 449.436.~~
~~(b) "Deep sedation" has the meaning ascribed to it in NRS 449.437.~~
~~(c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.~~
~~(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.]~~