

## Amendment No. 881

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

**Proposed by:** Assembly Committee on Commerce and Labor**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

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: 6/2/2011

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 certain providers of health care; revising provisions governing the standard of proof in any disciplinary hearing before the Board 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 48 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, 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.

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 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.

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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

1 this section available in this State for inspection within 10 working days after the  
2 request.

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

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

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

- 27 (a) The patient or a representative with written authorization from the patient;
- 28 (b) The personal representative of the estate of a deceased patient;
- 29 (c) Any trustee of a living trust created by a deceased patient;
- 30 (d) The parent or guardian of a deceased patient who died before reaching the  
31 age of majority; or

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

34 ➤ The records must be made available at a place within the depository convenient  
35 for physical inspection, and inspection must be permitted at all reasonable office  
36 hours and for a reasonable length of time. The person who owns or operates an  
37 ambulance shall also furnish a copy of the records to each person described in this  
38 subsection who requests it and pays the actual cost of postage, if any, and the costs  
39 of making the copy, not to exceed 60 cents per page for photocopies. No  
40 administrative fee or additional service fee of any kind may be charged for  
41 furnishing a copy of the records.

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

- 44 (a) The patient named in the records has consented in writing to their use; or
- 45 (b) Appropriate procedures are utilized to protect the identity of the patient  
46 from public disclosure.

47 6. Subsection 5 does not prohibit:

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

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

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

8. For the purposes of this section:

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

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

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

and

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

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

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

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

~~1. Any 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 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.~~ **(Deleted by amendment.)**

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

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

(a) Enforce the provisions of this chapter;

(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;

(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.

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

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

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

6     630.267 1. Each holder of a license to practice medicine must, on or before  
7     July 1, *or if July 1 is a Saturday, Sunday or legal holiday, on the next business*  
8     *day after July 1*, of each ~~alternate~~ *odd-numbered* year:

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

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

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

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

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

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

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

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

32     **Sec. 5.** (Deleted by amendment.)

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

34     630.2695 1. Each license issued pursuant to NRS 630.2694 expires on July  
35     1, *or if July 1 is a Saturday, Sunday or legal holiday, on the next business day*  
36     *after July 1*, of every odd-numbered year and may be renewed if, before the license  
37     expires, the holder of the license submits to the Board:

38     (a) A completed application for renewal on a form prescribed by the Board;

39     (b) Proof of completion of the requirements for continuing education  
40     prescribed by regulations adopted by the Board pursuant to NRS 630.269; and

41     (c) The applicable fee for renewal of the license prescribed by the Board  
42     pursuant to NRS 630.2691.

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

46     (a) Complies with the provisions of subsection 1; and

47     (b) Submits to the Board the fees:

48     (1) For the reinstatement of an expired license, prescribed by regulations  
49     adopted by the Board pursuant to NRS 630.269; and

50     (2) For each biennium that the license was expired, for the renewal of the  
51     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; and

(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, ~~or~~ 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

1 Board or committee in determining the fitness of a physician, perfusionist,  
2 physician assistant or practitioner of respiratory care are not subject to the  
3 requirements of NRS 241.020.

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

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

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

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

15 (c) Any communication between:

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

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

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

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

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

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

34 630.346 In any disciplinary hearing:

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

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

42 3. Proof of actual injury need not be established.

43 ~~[3.]~~ 4. A certified copy of the record of a court or a licensing agency showing  
44 a conviction or plea of nolo contendere or the suspension, revocation, limitation,  
45 modification, denial or surrender of a license to practice medicine, perfusion or  
46 respiratory care is conclusive evidence of its occurrence.

47 **Sec. 11.** (Deleted by amendment.)

48 **Sec. 12.** (Deleted by amendment.)

49 **Sec. 13.** (Deleted by amendment.)

50 **Sec. 14.** (Deleted by amendment.)

51 **Sec. 15.** (Deleted by amendment.)

52 **Sec. 16.** (Deleted by amendment.)

53 **Sec. 17.** (Deleted by amendment.)

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

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

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

11       ~~3. As used in this section, "dangerous drug" has the meaning ascribed to it~~  
12 ~~in NRS 454.201.] (Deleted by amendment.)~~

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

14       633.286 1. On or before February 15 of each odd-numbered year, the Board  
15 shall submit to the Governor and to the Director of the Legislative Counsel Bureau  
16 for transmittal to the next regular session of the Legislature a written report  
17 compiling:

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

20       (b) Information reported to the Board during the previous biennium pursuant to  
21 NRS 633.526, 633.527, subsections 3 and ~~4~~ 6 of NRS 633.533 and NRS  
22 690B.250 and 690B.260; and

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

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

29       **Sec. 20.** NRS 633.524 is hereby amended to read as follows:

30       633.524 1. The Board shall require each holder of a license to practice  
31 osteopathic medicine issued pursuant to this chapter to submit ~~annually~~ to the  
32 Board, on a form provided by the Board, and in the format required by the Board by  
33 regulation, a report stating the number and type of surgeries requiring conscious  
34 sedation, deep sedation or general anesthesia performed by the holder of the license  
35 at his or her office or any other facility, excluding any surgical care performed:

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

37       (b) Outside of this State.

38       2. In addition to the report required pursuant to subsection 1, the Board shall  
39 require each holder of a license to practice osteopathic medicine to submit a report  
40 ~~annually~~ to the Board concerning the occurrence of any sentinel event arising  
41 from any surgery described in subsection 1. The report must be submitted in the  
42 manner prescribed by the Board which must be substantially similar to the manner  
43 prescribed by the State Board of Health for reporting information pursuant to NRS  
44 439.835.

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

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

48       (b) *Whether* or not the holder of the license performed any surgery described  
49 in subsection 1. Failure to submit a report or knowingly filing false information in a  
50 report constitutes grounds for initiating disciplinary action pursuant to NRS  
51 633.511.

52       4. *In addition to the reports required pursuant to subsections 1 and 2, the*  
53 *Board shall require each holder of a license to practice osteopathic medicine to*

1 *submit a report to the Board concerning the occurrence of any sentinel event*  
2 *arising from any surgery described in subsection 1 within 14 days after the*  
3 *occurrence of the sentinel event. The report must be submitted in the manner*  
4 *prescribed by the Board.*

5 5. The Board shall:

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

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

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

14 ~~5;~~ 6. Except as otherwise provided in NRS 239.0115, a report received  
15 pursuant to subsection 1, ~~and~~ 2 *or 4* is confidential, not subject to subpoena or  
16 discovery, and not subject to inspection by the general public.

17 ~~6;~~ 7. The provisions of this section do not apply to surgical care requiring  
18 only the administration of oral medication to a patient to relieve the patient's  
19 anxiety or pain, if the medication is not given in a dosage that is sufficient to induce  
20 in a patient a controlled state of depressed consciousness or unconsciousness  
21 similar to general anesthesia, deep sedation or conscious sedation.

22 ~~7;~~ 8. In addition to any other remedy or penalty, if a holder of a license to  
23 practice osteopathic medicine fails to submit a report or knowingly files false  
24 information in a report submitted pursuant to this section, the Board may, after  
25 providing the holder of a license to practice osteopathic medicine with notice and  
26 opportunity for a hearing, impose against the holder of a license an administrative  
27 penalty for each such violation. The Board shall establish by regulation a sliding  
28 scale based on the severity of the violation to determine the amount of the  
29 administrative penalty to be imposed against the holder of the license to practice  
30 osteopathic medicine. The regulations must include standards for determining the  
31 severity of the violation and may provide for a more severe penalty for multiple  
32 violations.

33 ~~8;~~ 9. As used in this section:

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

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

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

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

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

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

43 633.533 1. Except as otherwise provided in subsection 2, any person may  
44 file with the Board a complaint against an osteopathic physician *or physician*  
45 *assistant* on a form provided by the Board. The form may be submitted in writing  
46 or electronically. If a complaint is submitted anonymously, the Board may accept  
47 the complaint but may refuse to consider the complaint if the lack of the identity of  
48 the complainant makes processing the complaint impossible or unfair to the person  
49 who is the subject of the complaint.

50 2. Any licensee, medical school or medical facility that becomes aware that a  
51 person practicing osteopathic medicine in this State has, is or is about to become  
52 engaged in conduct which constitutes grounds for initiating disciplinary action shall

1 file a written complaint with the Board within 30 days after becoming aware of the  
2 conduct.

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

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

15 (a) *An investigation of the mental, medical or psychological competency of*  
16 *the osteopathic physician or physician assistant; or*

17 (b) *Suspected or alleged substance abuse in any form by the osteopathic*  
18 *physician or physician assistant.*

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

27 ~~4-1~~ 6. The clerk of every court shall report to the Board any finding,  
28 judgment or other determination of the court that an osteopathic physician or  
29 physician assistant:


30 (a) Is a person with mental illness;

31 (b) Is a person with mental incompetence;

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

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

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

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

38 ~~5-1~~ 7. On or before January 15 of each year, the clerk of every court shall  
39 submit to the Office of Court Administrator created pursuant to NRS 1.320 a  
40 written report compiling the information that the clerk reported during the previous  
41 year to the Board regarding osteopathic physicians pursuant to paragraph (e) of  
42 subsection ~~4-1~~ 6.

43 Sec. 22. (Deleted by amendment.)