

Amendment No. 214

Senate Amendment to Senate Bill No. 294

(BDR 40-16)

Proposed by: Senate Committee on Commerce, Labor and Energy**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: 4/12/2011

S.B. No. 294—Establishes provisions governing medical assistants. (BDR 40-16)



SENATE BILL NO. 294—SENATOR CEGAVSKE

MARCH 21, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Establishes provisions governing medical assistants. (BDR 40-16)

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 persons authorized to possess and administer dangerous drugs; ~~requiring physicians to notify the Board of Medical Examiners or State Board of Osteopathic Medicine of the employment status of medical assistants;~~ revising provisions regarding certain acts of physicians; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the exclusive list of persons who may possess and administer dangerous drugs in this State. (NRS 454.213) **Sections 1 and 7** of this bill authorize medical assistants, under the supervision of a physician ~~or physician assistant,~~ to possess and administer dangerous drugs. **Under certain circumstances, Section 1 also authorizes a veterinary assistant, at the direction of a supervising veterinarian, to possess and administer dangerous drugs.**

Sections 4 and 10 of this bill authorize ~~to a physician to employ a medical assistant and require the physician to notify~~ the Board of Medical Examiners ~~for~~ **and** the State Board of Osteopathic Medicine. ~~as applicable, that the physician has employed a medical assistant. Sections 4 and 10 also require the Boards~~ to adopt regulations relating to the ~~employment and~~ supervision of medical assistants, including limitations on the possession and administration of dangerous drugs.

Sections 6 and 12 of this bill provide that failure to supervise adequately a medical assistant is grounds for disciplinary action.

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

Section 1. NRS 454.213 is hereby amended to read as follows:
454.213 A drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by:
1. A practitioner.
2. A physician assistant licensed pursuant to chapter 630 or 633 of NRS, at the direction of his or her supervising physician or a licensed dental hygienist acting in the office of and under the supervision of a dentist.

1 3. Except as otherwise provided in subsection 4, a registered nurse licensed to
2 practice professional nursing or licensed practical nurse, at the direction of a
3 prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of
4 NRS, dentist, podiatric physician or advanced practitioner of nursing, or pursuant to
5 a chart order, for administration to a patient at another location.

6 4. In accordance with applicable regulations of the Board, a registered nurse
7 licensed to practice professional nursing or licensed practical nurse who is:

8 (a) Employed by a health care agency or health care facility that is authorized
9 to provide emergency care, or to respond to the immediate needs of a patient, in the
10 residence of the patient; and

11 (b) Acting under the direction of the medical director of that agency or facility
12 who works in this State.

13 5. Except as otherwise provided in subsection 6, an intermediate emergency
14 medical technician or an advanced emergency medical technician, as authorized by
15 regulation of the State Board of Pharmacy and in accordance with any applicable
16 regulations of:

17 (a) The State Board of Health in a county whose population is less than
18 100,000;

19 (b) A county board of health in a county whose population is 100,000 or more;
20 or

21 (c) A district board of health created pursuant to NRS 439.362 or 439.370 in
22 any county.

23 6. An intermediate emergency medical technician or an advanced emergency
24 medical technician who holds an endorsement issued pursuant to NRS 450B.1975,
25 under the direct supervision of a local health officer or a designee of the local
26 health officer pursuant to that section.

27 7. A respiratory therapist employed in a health care facility. The therapist may
28 possess and administer respiratory products only at the direction of a physician.

29 8. A dialysis technician, under the direction or supervision of a physician or
30 registered nurse only if the drug or medicine is used for the process of renal
31 dialysis.

32 9. A medical student or student nurse in the course of his or her studies at an
33 approved college of medicine or school of professional or practical nursing, at the
34 direction of a physician and:

35 (a) In the presence of a physician or a registered nurse; or

36 (b) Under the supervision of a physician or a registered nurse if the student is
37 authorized by the college or school to administer the drug or medicine outside the
38 presence of a physician or nurse.

39 ➤ A medical student or student nurse may administer a dangerous drug in the
40 presence or under the supervision of a registered nurse alone only if the
41 circumstances are such that the registered nurse would be authorized to administer
42 it personally.

43 10. Any person designated by the head of a correctional institution.

44 11. An ultimate user or any person designated by the ultimate user pursuant to
45 a written agreement.

46 12. A nuclear medicine technologist, at the direction of a physician and in
47 accordance with any conditions established by regulation of the Board.

48 13. A radiologic technologist, at the direction of a physician and in
49 accordance with any conditions established by regulation of the Board.

50 14. A chiropractic physician, but only if the drug or medicine is a topical drug
51 used for cooling and stretching external tissue during therapeutic treatments.

52 15. A physical therapist, but only if the drug or medicine is a topical drug
53 which is:

(a) Used for cooling and stretching external tissue during therapeutic treatments; and

(b) Prescribed by a licensed physician for:

(1) Iontophoresis; or

(2) The transmission of drugs through the skin using ultrasound.

16. In accordance with applicable regulations of the State Board of Health, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.

17. A veterinary technician or a veterinary assistant at the direction of his or her supervising veterinarian.

18. In accordance with applicable regulations of the Board, a registered pharmacist who:

(a) Is trained in and certified to carry out standards and practices for immunization programs;

(b) Is authorized to administer immunizations pursuant to written protocols from a physician; and

(c) Administers immunizations in compliance with the "Standards ~~for~~ for Immunization Practices" recommended and approved by the ~~United States Public Health Service~~ Advisory Committee on Immunization Practices.

19. A person who is enrolled in a training program to become a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician if the person possesses and administers the drug or medicine in the same manner and under the same conditions that apply, respectively, to a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician who may possess and administer the drug or medicine, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

20. *A medical assistant, in accordance with applicable regulations of the:*

(a) *Board of Medical Examiners, at the direction of the prescribing physician and under the supervision of ~~the~~ a physician ~~who employs the medical assistant pursuant to section 4 of this act,~~ or physician assistant.*

(b) *State Board of Osteopathic Medicine, at the direction of the prescribing physician and under the supervision of ~~the~~ a physician ~~who employs the medical assistant pursuant to section 10 of this act,~~ or physician assistant.*

Sec. 2. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. 1. "Medical assistant" means a person who:

(a) ~~Is employed by a physician to perform~~ Performs clinical tasks under the supervision of a physician ~~or~~ or physician assistant; and

(b) *Does not hold a license, certificate or registration issued by a professional licensing or regulatory board in this State to perform such clinical tasks.*

2. *The term does not include a person who ~~is employed by a physician to perform~~ performs only administrative, clerical, executive or other nonclinical tasks.*

Sec. 4. ~~1. A physician may employ or supervise a medical assistant.~~

~~2. A physician who employs a medical assistant shall~~

~~(a) Notify the Board within 30 days after employing or terminating the employment of a medical assistant.~~

~~(b) Provide adequate supervision for the medical assistant.~~
~~3. The Board shall~~
~~(a) Maintain a registry of medical assistants employed by each physician;~~
~~(b) Prescribe the form and content of the notice required pursuant to subsection 2; and~~
~~(c) Adopt~~ may adopt regulations governing the ~~employment and~~
supervision of a medical assistant, including, without limitation, regulations
which prescribe limitations on the possession and administration of a dangerous
drug by a medical assistant.

Sec. 5. NRS 630.005 is hereby amended to read as follows:
630.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 630.007 to 630.026, inclusive, and section 3 of this act have the meanings ascribed to them in those sections.

Sec. 6. NRS 630.306 is hereby amended to read as follows:
630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.
2. Engaging in any conduct:
 - (a) Which is intended to deceive;
 - (b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or
 - (c) Which is in violation of a regulation adopted by the State Board of Pharmacy.
3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law.
4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.
5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he or she is not competent to perform or which are beyond the scope of his or her training.
6. Performing, without first obtaining the informed consent of the patient or the patient's family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.
7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.
8. Habitual intoxication from alcohol or dependency on controlled substances.
9. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.
10. Failing to comply with the requirements of NRS 630.254.
11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against the licensee or applicant by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of a license to practice medicine in another jurisdiction.
12. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal

Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

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

14. Operation of a medical facility at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➤ This subsection applies to an owner or other principal responsible for the operation of the facility.

15. Failure to comply with the requirements of NRS 630.373.

16. Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board.

17. Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.

Sec. 7. NRS 630.369 is hereby amended to read as follows:

630.369 1. A person, other than a physician, shall not inject a patient with any chemotherapeutic agent classified as a prescription drug unless ~~;~~ ~~the~~

(a) The person administers the injection under the supervision of a physician and;

~~(b) The person is licensed or certified to perform medical services pursuant to this title;~~

(2) The administration of the injection is within the scope of the person's license or certificate; and

~~(c) The person administers the injection under the supervision of a physician; or~~

(b) The person administers the injection under the supervision of a physician or physician assistant and;

(1) The person is a medical assistant authorized to administer a dangerous drug pursuant to NRS 454.213; and ~~the~~

(2) The chemotherapeutic agent is classified as a dangerous drug.

➤ The Board shall prescribe the requirements for supervision pursuant to this subsection.

2. As used in this section:

(a) "Dangerous drug" has the meaning ascribed to it in NRS 454.201.

(b) "Prescription drug" means:

(1) A controlled substance or dangerous drug that may be dispensed to an ultimate user only pursuant to a lawful prescription; and

(2) Any other substance or drug substituted for such a controlled substance or dangerous drug.

Sec. 8. Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 9 and 10 of this act.

Sec. 9. 1. "Medical assistant" means a person who:

(a) ~~Is employed by an osteopathic physician to perform~~ Performs clinical tasks under the supervision of an osteopathic physician ~~or~~ or physician assistant; and

(b) Does not hold a license, certificate or registration issued by a professional licensing or regulatory board in this State to perform such clinical tasks.

2. The term does not include a person who ~~is employed by an osteopathic physician to perform~~ performs only administrative, clerical, executive or other nonclinical tasks.

1 **Sec. 10.** ~~1. An osteopathic physician may employ or supervise a medical~~
 2 ~~assistant.~~

3 ~~2. An osteopathic physician who employs a medical assistant shall:~~

4 ~~(a) Notify the Board within 30 days after employing or terminating the~~
 5 ~~employment of a medical assistant.~~

6 ~~(b) Provide adequate supervision for the medical assistant.~~

7 ~~3. The Board shall:~~

8 ~~(a) Maintain a registry of medical assistants employed by each osteopathic~~
 9 ~~physician;~~

10 ~~(b) Prescribe the form and content of the notice required pursuant to~~
 11 ~~subsection 2; and~~

12 ~~(c) Adopt~~ may adopt regulations governing the [employment and]
 13 supervision of a medical assistant, including, without limitation, regulations
 14 which prescribe limitations on the possession and administration of a dangerous
 15 drug by a medical assistant.

16 **Sec. 11.** NRS 633.011 is hereby amended to read as follows:

17 633.011 As used in this chapter, unless the context otherwise requires, the
 18 words and terms defined in NRS 633.021 to 633.131, inclusive, and section 9 of
 19 this act have the meanings ascribed to them in those sections.

20 **Sec. 12.** NRS 633.511 is hereby amended to read as follows:

21 633.511 The grounds for initiating disciplinary action pursuant to this chapter
 22 are:

23 1. Unprofessional conduct.

24 2. Conviction of:

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

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

29 (c) A violation of any of the provisions of NRS 616D.200, 616D.220,
 30 616D.240 or 616D.300 to 616D.440, inclusive;

31 (d) Murder, voluntary manslaughter or mayhem;

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

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

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

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

37 (i) Any offense involving moral turpitude.

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

40 4. Malpractice or gross malpractice, which may be evidenced by a claim of
 41 malpractice settled against a practitioner.

42 5. Professional incompetence.

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

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

45 8. Failure to comply with the provisions of NRS 633.694.

46 9. Operation of a medical facility, as defined in NRS 449.0151, at any time
 47 during which:

48 (a) The license of the facility is suspended or revoked; or

49 (b) An act or omission occurs which results in the suspension or revocation of
 50 the license pursuant to NRS 449.160.

51 ➤ This subsection applies to an owner or other principal responsible for the
 52 operation of the facility.

53 10. Failure to comply with the provisions of subsection 2 of NRS 633.322.

11. Signing a blank prescription form.

12. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

13. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

14. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

15. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board within 30 days after the date the licensee knows or has reason to know of the violation.

16. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

17. Engaging in any act that is unsafe in accordance with regulations adopted by the Board.

18. Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.

Sec. 13. ~~{1. The Board of Medical Examiners shall, on or before December 31, 2011, adopt the regulations required by section 4 of this act and NRS 630.369, as amended by section 7 of this act.~~

~~2. The State Board of Osteopathic Medicine shall, on or before December 31, 2011, adopt the regulations required by section 10 of this act.}~~ **(Deleted by amendment.)**

Sec. 14. This act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.