

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 who performs an autopsy to submit a written report of the findings of the autopsy to the Board of Medical Examiners 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 a change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory 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; 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



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such a report, to investigate the death of the decedent to determine whether the conduct of any physician contributed to the death.

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. (NRS 630.307) **Section 8** of this bill requires that such a report 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 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.

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



1 additional service fee of any kind may be charged for furnishing
2 such a copy. The provider of health care shall furnish the copy of
3 the records requested pursuant to this subsection within 30 days
4 after the date of receipt of the request, and the provider of health
5 care shall not deny the furnishing of a copy of the records pursuant
6 to this subsection solely because the patient is unable to pay the fees
7 established in this subsection.

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

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

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

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

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

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

21 ➔ The records must be made available at a place within the
22 depository convenient for physical inspection, and inspection must
23 be permitted at all reasonable office hours and for a reasonable
24 length of time. The person who owns or operates an ambulance shall
25 also furnish a copy of the records to each person described in this
26 subsection who requests it and pays the actual cost of postage, if
27 any, and the costs of making the copy, not to exceed 60 cents per
28 page for photocopies. No administrative fee or additional service fee
29 of any kind may be charged for furnishing a copy of the records.

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

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

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

36 6. Subsection 5 does not prohibit:

37 (a) A state licensing board from providing to a provider of
38 health care or owner or operator of an ambulance against whom a
39 complaint or written allegation has been filed, or to his or her
40 attorney, information on the identity of a patient whose records may
41 be used in a public hearing relating to the complaint or allegation,
42 but the provider of health care or owner or operator of an ambulance
43 and the attorney 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.

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; *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



1 registration and after he or she is found to be in good standing and
2 qualified under the provisions of this chapter, be reinstated to
3 practice.

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

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

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

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

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

14 630.268 1. The Board shall charge and collect not more than
15 the following fees:

16		
17	For application for and issuance of a license to	
18	practice as a physician, including a license by	
19	endorsement.....	\$600
20	For application for and issuance of a temporary,	
21	locum tenens, limited, restricted, authorized	
22	facility, special, special purpose or special	
23	event license.....	400
24	For renewal of a limited, restricted, authorized	
25	facility or special license.....	400 800
26	For application for and issuance of a license as a	
27	physician assistant.....	400
28	For biennial registration of a physician assistant	800
29	For biennial registration of a physician.....	800
30	For application for and issuance of a license as a	
31	perfusionist or practitioner of respiratory care.....	400
32	For biennial renewal of a license as a perfusionist	600
33	For biennial registration of a practitioner of	
34	respiratory care.....	600
35	For biennial registration for a physician who is on	
36	inactive status.....	400
37	For written verification of licensure.....	50
38	For a duplicate identification card.....	25
39	For a duplicate license.....	50
40	For computer printouts or labels	500
41	For verification of a listing of physicians, per hour	20
42	For furnishing a list of new physicians	100
43		

44 2. In addition to the fees prescribed in subsection 1, the Board
45 shall charge and collect necessary and reasonable fees for the



1 expedited processing of a request or for any other incidental service
2 the Board provides.

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

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

10 630.2695 1. Each license issued pursuant to NRS 630.2694
11 expires on July 1 , *or if July 1 is a Saturday, Sunday or legal*
12 *holiday, on the next business day after July 1*, of every odd-
13 numbered year and may be renewed if, before the license expires,
14 the holder of the license submits to the Board:

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

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

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

22 2. A license that expires pursuant to this section not more than
23 2 years before an application for renewal is made ~~[is automatically~~
24 ~~suspended and]~~ may be reinstated only if the applicant:

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

26 (b) Submits to the Board the fees:

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

29 (2) For each biennium that the license was expired, for the
30 renewal of the license.

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

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

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

39 630.277 1. Every person who wishes to practice respiratory
40 care in this State must:

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

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



1 Committee on Accreditation for Respiratory Care or its successor
2 organization;

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

8 (d) Be certified by the ~~[Commission on Accreditation of Allied~~
9 ~~Health Education Programs or its successor organization or the~~
10 ~~Committee on Accreditation]~~ *National Board* for Respiratory Care
11 or its successor organization; and

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

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

16 (a) Practice respiratory care; or

17 (b) Hold himself or herself out as qualified to practice
18 respiratory care,
19 ➔ in this State without complying with the provisions of
20 subsection 1.

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

26 **Sec. 8.** NRS 630.307 is hereby amended to read as follows:

27 630.307 1. Except as otherwise provided in subsection 2, any
28 person may file with the Board a complaint against a physician,
29 perfusionist, physician assistant or practitioner of respiratory care on
30 a form provided by the Board. The form may be submitted in
31 writing or electronically. If a complaint is submitted anonymously,
32 the Board may accept the complaint but may refuse to consider the
33 complaint if the lack of the identity of the complainant makes
34 processing the complaint impossible or unfair to the person who is
35 the subject of the complaint.

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

42 3. ~~[Any]~~ *Except as otherwise provided in subsection 4, any*
43 hospital, clinic or other medical facility licensed in this State, or
44 medical society, shall report to the Board any change in the
45 privileges of a physician, perfusionist, physician assistant or



1 practitioner of respiratory care to practice while the physician,
2 perfusionist, physician assistant or practitioner of respiratory care is
3 under investigation and the outcome of any disciplinary action taken
4 by that facility or society against the physician, perfusionist,
5 physician assistant or practitioner of respiratory care concerning the
6 care of a patient or the competency of the physician, perfusionist,
7 physician assistant or practitioner of respiratory care within 30 days
8 after the change in privileges is made or disciplinary action is taken.

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

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

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

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

30 ~~[4.]~~ ***6.*** The clerk of every court shall report to the Board any
31 finding, judgment or other determination of the court that a
32 physician, perfusionist, physician assistant or practitioner of
33 respiratory care:

34 (a) Is mentally ill;

35 (b) Is mentally incompetent;

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

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

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

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

43 ~~[5.]~~ ***7.*** On or before January 15 of each year, the clerk of each
44 court shall submit to the Office of Court Administrator created
45 pursuant to NRS 1.320 a written report compiling the information



1 that the clerk reported during the previous year to the Board
2 regarding physicians pursuant to paragraph (e) of subsection ~~4~~.

3 ~~6.1~~ 6.

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

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

8 630.336 1. Any deliberations conducted or vote taken by the
9 Board or any investigative committee of the Board regarding its
10 ordering of a physician, perfusionist, physician assistant or
11 practitioner of respiratory care to undergo a physical or mental
12 examination or any other examination designated to assist the Board
13 or committee in determining the fitness of a physician, perfusionist,
14 physician assistant or practitioner of respiratory care are not subject
15 to the requirements of NRS 241.020.

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

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

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

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

29 (c) Any communication between:

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

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

34 4. Except as otherwise provided in subsection 5 and NRS
35 239.0115, a complaint filed with the Board pursuant to NRS
36 630.307, all documents and other information filed with the
37 complaint and all documents and other information compiled as a
38 result of an investigation conducted to determine whether to initiate
39 disciplinary action are confidential.

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

44 6. This section does not prevent or prohibit the Board from
45 communicating or cooperating with any other licensing board or



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1 agency or any agency which is investigating a licensee, including a
2 law enforcement agency. Such cooperation may include, without
3 limitation, providing the board or agency with minutes of a closed
4 meeting, transcripts of oral examinations and the results of oral
5 examinations.

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

7 630.346 In any disciplinary hearing:

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

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

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

18 ~~3.~~ 4. A certified copy of the record of a court or a licensing
19 agency showing a conviction or plea of nolo contendere or the
20 suspension, revocation, limitation, modification, denial or surrender
21 of a license to practice medicine, perfusion or respiratory care is
22 conclusive evidence of its occurrence.

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

24 630.373 1. A physician shall not administer or supervise
25 directly the administration of general anesthesia, conscious sedation
26 or deep sedation to patients unless the general anesthesia, conscious
27 sedation or deep sedation is administered:

28 (a) In an office of a physician or osteopathic physician which
29 holds a permit pursuant to NRS 449.435 to 449.448, inclusive ~~3.~~,
30 *and section 12 of this act;*

31 (b) In a facility which holds a permit pursuant to NRS 449.435
32 to 449.448, inclusive ~~3.~~, *and section 12 of this act;*

33 (c) In a medical facility as that term is defined in NRS
34 449.0151; or

35 (d) Outside of this State.

36 2. As used in this section:

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

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

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



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

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

10 (a) *At a medical facility; or*

11 (b) *Outside of this State.*

12 2. *In addition to the report required pursuant to subsection 1,*
13 *each person who is licensed to practice medicine pursuant to*
14 *chapter 630 of NRS shall submit annually to the Health Division a*
15 *report concerning the occurrence of any sentinel event arising*
16 *from any surgery described in subsection 1. The report must be*
17 *submitted in the manner prescribed by the Board for reporting*
18 *information pursuant to NRS 439.835.*

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

26 4. *The Health Division shall:*

27 (a) *Collect and maintain the reports received pursuant to*
28 *subsections 1 and 2;*

29 (b) *Ensure that the reports, and any additional documents*
30 *created from the reports, are protected adequately from fire, theft,*
31 *loss, destruction and other hazards, and from unauthorized*
32 *access; and*

33 (c) *Maintain the confidentiality of such reports in accordance*
34 *with subsection 5.*

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

39 6. *On or before February 15 of each odd-numbered year, the*
40 *Health Division shall submit to the Governor and to the Director*
41 *of the Legislative Counsel Bureau for transmittal to the next*
42 *regular session of the Legislature a written report of the*
43 *information reported to the Health Division during the previous*
44 *biennium pursuant to this section, including, without limitation,*
45 *the number and types of surgeries performed by each person who*



1 *is licensed to practice medicine pursuant to chapter 630 of NRS*
2 *and the occurrence of sentinel events arising from such surgeries,*
3 *if any. The report must include only aggregate information for*
4 *statistical purposes and exclude any identifying information*
5 *related to a particular person.*

6 7. *In addition to any other remedy or penalty, if a person who*
7 *is licensed to practice medicine pursuant to chapter 630 of NRS*
8 *fails to submit a report or knowingly files false information in a*
9 *report submitted pursuant to this section, the Health Division may,*
10 *after providing the person with notice and opportunity for a*
11 *hearing, impose against the person an administrative penalty for*
12 *each such violation. The Health Division shall establish by*
13 *regulation a sliding scale based on the severity of the violation to*
14 *determine the amount of the administrative penalty to be imposed*
15 *against the person pursuant to this subsection. The regulations*
16 *must include standards for determining the severity of the*
17 *violation and may provide for a more severe penalty for multiple*
18 *violations.*

19 8. *As used in this section, "sentinel event" means an*
20 *unexpected occurrence involving death or serious physical or*
21 *psychological injury or the risk thereof, including, without*
22 *limitation, any process variation for which a recurrence would*
23 *carry a significant chance of serious adverse outcome. The term*
24 *includes loss of limb or function.*

25 **Sec. 13.** NRS 449.435 is hereby amended to read as follows:

26 449.435 As used in NRS 449.435 to 449.448, inclusive, *and*
27 *section 12 of this act*, unless the context otherwise requires, the
28 words and terms defined in NRS 449.436 to 449.439, inclusive,
29 have the meanings ascribed to them in those sections.

30 **Sec. 14.** NRS 449.441 is hereby amended to read as follows:

31 449.441 The provisions of NRS 449.435 to 449.448, inclusive,
32 *and section 12 of this act* do not apply to *a person who is licensed*
33 *to practice medicine pursuant to chapter 630 of NRS or to* an
34 office of a physician or a facility that provides health care, other
35 than a medical facility, if the *person or the* office of a physician or
36 the facility only administers a medication to a patient to relieve the
37 patient's anxiety or pain and if the medication is not given in a
38 dosage that is sufficient to induce in a patient a controlled state of
39 depressed consciousness or unconsciousness similar to general
40 anesthesia, deep sedation or conscious sedation.

41 **Sec. 15.** NRS 449.447 is hereby amended to read as follows:

42 449.447 1. If an office of a physician or a facility that
43 provides health care, other than a medical facility, violates the
44 provisions of NRS 449.435 to 449.448, inclusive, *and section 12 of*
45 *this act* or the regulations adopted pursuant thereto, or fails to



1 correct a deficiency indicated in a report pursuant to NRS 449.446,
2 the Health Division, in accordance with the regulations adopted
3 pursuant to NRS 449.448, may take any of the following actions:

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

9 2. The Health Division may review a report submitted pursuant
10 to NRS ~~[630.30665 or]~~ 633.524 *or section 12 of this act* to
11 determine whether an office of a physician or a facility is in
12 violation of the provisions of NRS 449.435 to 449.448, inclusive,
13 *and section 12 of this act* or the regulations adopted pursuant
14 thereto. If the Health Division determines that such a violation has
15 occurred, the Health Division shall immediately notify the
16 appropriate professional licensing board of the physician.

17 3. If a surgical center for ambulatory patients violates the
18 provisions of NRS 449.435 to 449.448, inclusive, *and section 12 of*
19 *this act* or the regulations adopted pursuant thereto, or fails to
20 correct a deficiency indicated in a report pursuant to NRS 449.446,
21 the Health Division may impose administrative sanctions pursuant
22 to NRS 449.163.

23 **Sec. 16.** NRS 449.448 is hereby amended to read as follows:

24 449.448 1. The Board shall adopt regulations to carry out the
25 provisions of NRS 449.435 to 449.448, inclusive, *and section 12 of*
26 *this act*, including, without limitation, regulations which:

27 (a) Prescribe the amount of the fee required for applications for
28 the issuance and renewal of a permit pursuant to NRS 449.443 and
29 449.444.

30 (b) Prescribe the procedures and standards for the issuance and
31 renewal of a permit.

32 (c) Identify the nationally recognized organizations approved by
33 the Board for the purposes of the accreditation required for the
34 issuance of a:

35 (1) License to operate a surgical center for ambulatory
36 patients.

37 (2) Permit for an office of a physician or a facility that
38 provides health care, other than a medical facility, to offer to a
39 patient a service of general anesthesia, conscious sedation or deep
40 sedation.

41 (d) Prescribe the procedures and scope of the inspections
42 conducted by the Health Division pursuant to NRS 449.446.

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



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

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

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

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

2. The regulations adopted pursuant to this section must require that the practices and policies of each holder of a permit to offer to a patient a service of general anesthesia, conscious sedation or deep sedation and each holder of a license to operate a surgical center for ambulatory patients provide adequately for the protection of the health, safety and well-being of patients.

Sec. 17. NRS 453.1545 is hereby amended to read as follows:

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

(a) Be designed to provide information regarding:

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

(2) Statistical data relating to the use of those controlled substances that is not specific to a particular patient ~~and~~; *and*

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

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

(c) Not infringe on the legal use of a controlled substance for the management 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.



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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.

Sec. 18. 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



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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 630.306.

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:



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(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.

