

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 18** of this bill imposes similar requirements concerning an autopsy performed by an osteopathic physician.



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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.

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

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



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

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

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

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

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

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

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



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1 after the date of receipt of the request, and the provider of health
2 care shall not deny the furnishing of a copy of the records pursuant
3 to this subsection solely because the patient is unable to pay the fees
4 established in this subsection.

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

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

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

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

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

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

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

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

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

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

33 6. Subsection 5 does not prohibit:

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

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

44 7. A provider of health care or owner or operator of an
45 ambulance and his or her agents and employees are immune from



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1 any civil action for any disclosures made in accordance with the
2 provisions of this section or any consequential damages.

3 8. For the purposes of this section:

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

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

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

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

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

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

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

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

25 *2. Upon receipt of a report submitted pursuant to subsection*
26 *1, the Board shall investigate the death of the decedent to*
27 *determine whether the conduct of any physician contributed to the*
28 *death of the decedent.*

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

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

32 630.130 1. In addition to the other powers and duties
33 provided in this chapter, the Board shall, in the interest of the public,
34 judiciously:

35 (a) Enforce the provisions of this chapter;

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

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

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

43 (e) Institute a proceeding in any court to enforce its orders or the
44 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 of NRS 630.307 and NRS 690B.250 and 690B.260; and

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

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

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

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

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

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

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

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

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

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



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

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

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

Sec. 5. (Deleted by amendment.)

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

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

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

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

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

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

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

(b) Submits to the Board the fees:

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

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

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

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

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

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

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

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



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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. 7.5.** NRS 630.30665 is hereby amended to read as
27 follows:

28 630.30665 1. The Board shall require each holder of a license
29 to practice medicine to submit ~~[annually]~~ to the Board, on a form
30 provided by the Board, a report stating the number and type of
31 surgeries requiring conscious sedation, deep sedation or general
32 anesthesia performed by the holder of the license at his or her office
33 or any other facility, excluding any surgical care performed:

34 (a) At a medical facility as that term is defined in NRS
35 449.0151; or

36 (b) Outside of this State.

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



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1 against the holder of the license pursuant to this subsection. The
2 regulations must include standards for determining the severity of
3 the violation and may provide for a more severe penalty for multiple
4 violations.

5 ~~[8-]~~ 9. As used in this section:

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

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

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

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

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

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

20 630.307 1. Except as otherwise provided in subsection 2, any
21 person may file with the Board a complaint against a physician,
22 perfusionist, physician assistant or practitioner of respiratory care on
23 a form provided by the Board. The form may be submitted in
24 writing or electronically. If a complaint is submitted anonymously,
25 the Board may accept the complaint but may refuse to consider the
26 complaint if the lack of the identity of the complainant makes
27 processing the complaint impossible or unfair to the person who is
28 the subject of the complaint.

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

35 3. ~~[Any]~~ *Except as otherwise provided in subsection 4, any*
36 hospital, clinic or other medical facility licensed in this State, or
37 medical society, shall report to the Board any change in the
38 privileges of a physician, perfusionist, physician assistant or
39 practitioner of respiratory care to practice while the physician,
40 perfusionist, physician assistant or practitioner of respiratory care is
41 under investigation and the outcome of any disciplinary action taken
42 by that facility or society against the physician, perfusionist,
43 physician assistant or practitioner of respiratory care concerning the
44 care of a patient or the competency of the physician, perfusionist,



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1 physician assistant or practitioner of respiratory care within 30 days
2 after the change in privileges is made or disciplinary action is taken.

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

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

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

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

24 ~~[4.]~~ *6.* The clerk of every court shall report to the Board any
25 finding, judgment or other determination of the court that a
26 physician, perfusionist, physician assistant or practitioner of
27 respiratory care:

28 (a) Is mentally ill;

29 (b) Is mentally incompetent;

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

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

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

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

37 ~~[5.]~~ *7.* On or before January 15 of each year, the clerk of each
38 court shall submit to the Office of Court Administrator created
39 pursuant to NRS 1.320 a written report compiling the information
40 that the clerk reported during the previous year to the Board
41 regarding physicians pursuant to paragraph (e) of subsection ~~[4.]~~

42 ~~—6.]~~ *6.*

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



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

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

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

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

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

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

(c) Any communication between:

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

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

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

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

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



Sec. 10. NRS 630.346 is hereby amended to read as follows:
630.346 In any disciplinary hearing:

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

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

3. Proof of actual injury need not be established.

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

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

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

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

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

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

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

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



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

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

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

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

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

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

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

(b) Outside of this State.

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

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

(a) At the time the holder of the 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 NRS 633.511.

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



practice osteopathic 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, ~~for~~ 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 osteopathic 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 osteopathic medicine with notice and opportunity for a hearing, impose against the holder of a license 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 to practice osteopathic medicine. 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.



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(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. 21. NRS 633.533 is hereby amended to read as follows:

633.533 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against an osteopathic physician *or physician assistant* 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 osteopathic medicine 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 ~~{an osteopathic physician's}~~ the privileges of an osteopathic physician or physician assistant to practice ~~{osteopathic medicine}~~ while the osteopathic physician or physician assistant is under investigation and the outcome of any disciplinary action taken by that facility or society against the osteopathic physician or physician assistant concerning the care of a patient or the competency of the osteopathic physician or physician assistant 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 an osteopathic physician or physician assistant that is based on:*

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

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

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



1 Health and Human Services. If, after a hearing, the Health Division
2 determines that any such facility or society failed to comply with the
3 requirements of this subsection, the Division may impose an
4 administrative fine of not more than \$10,000 against the facility or
5 society for each such failure to report. If the administrative fine is
6 not paid when due, the fine must be recovered in a civil action
7 brought by the Attorney General on behalf of the Division.

8 ~~[4.]~~ 6. The clerk of every court shall report to the Board any
9 finding, judgment or other determination of the court that an
10 osteopathic physician or physician assistant:

11 (a) Is a person with mental illness;

12 (b) Is a person with mental incompetence;

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

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

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

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

20 ~~[5.]~~ 7. On or before January 15 of each year, the clerk of every
21 court shall submit to the Office of Court Administrator created
22 pursuant to NRS 1.320 a written report compiling the information
23 that the clerk reported during the previous year to the Board
24 regarding osteopathic physicians pursuant to paragraph (e) of
25 subsection ~~[4.]~~ 6.

26 **Sec. 22.** (Deleted by amendment.)

