

SENATE BILL NO. 294—SENATORS CEGAVSKE AND LESLIE

MARCH 21, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Establishes provisions governing providers of health care. (BDR 40-16)

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

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

AN ACT relating to providers of health care; revising provisions governing persons authorized to possess and administer dangerous drugs; revising provisions regarding certain acts of physicians; revising provisions governing the practice of applied behavior analysis; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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

Sections 4 and 10 of this bill authorize the Board of Medical Examiners and the State Board of Osteopathic Medicine to adopt regulations relating to the supervision of medical assistants, including limitations on the possession and administration of dangerous drugs.

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

Existing law vests the Board of Psychological Examiners with jurisdiction over the licensure of behavior analysts and assistant behavior analysts and the certification of autism behavior interventionists. (NRS 641.110) **Section 21** of this bill revises the requirements for licensure as a behavior analyst or assistant behavior analyst to provide that the applicant must hold current certification as a board certified behavior analyst or board certified assistant behavior analyst, as applicable, issued by the Behavior Analyst Certification Board, Inc. **Section 22** of this bill expands the requirements for a certificate as an autism behavior interventionist to include the completion of a practical examination developed and approved by the Board. **Sections 23 and 24** of this bill provide that certain



23 disciplinary actions may be taken against a person who holds a certificate issued by
24 the Board.

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

1 **Section 1.** NRS 454.213 is hereby amended to read as follows:
2 454.213 A drug or medicine referred to in NRS 454.181 to
3 454.371, inclusive, may be possessed and administered by:
4 1. A practitioner.
5 2. A physician assistant licensed pursuant to chapter 630 or
6 633 of NRS, at the direction of his or her supervising physician or a
7 licensed dental hygienist acting in the office of and under the
8 supervision of a dentist.
9 3. Except as otherwise provided in subsection 4, a registered
10 nurse licensed to practice professional nursing or licensed practical
11 nurse, at the direction of a prescribing physician, physician assistant
12 licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric
13 physician or advanced practitioner of nursing, or pursuant to a chart
14 order, for administration to a patient at another location.
15 4. In accordance with applicable regulations of the Board, a
16 registered nurse licensed to practice professional nursing or licensed
17 practical nurse who is:
18 (a) Employed by a health care agency or health care facility that
19 is authorized to provide emergency care, or to respond to the
20 immediate needs of a patient, in the residence of the patient; and
21 (b) Acting under the direction of the medical director of that
22 agency or facility who works in this State.
23 5. Except as otherwise provided in subsection 6, an
24 intermediate emergency medical technician or an advanced
25 emergency medical technician, as authorized by regulation of the
26 State Board of Pharmacy and in accordance with any applicable
27 regulations of:
28 (a) The State Board of Health in a county whose population is
29 less than 100,000;
30 (b) A county board of health in a county whose population is
31 100,000 or more; or
32 (c) A district board of health created pursuant to NRS 439.362
33 or 439.370 in any county.
34 6. An intermediate emergency medical technician or an
35 advanced emergency medical technician who holds an endorsement
36 issued pursuant to NRS 450B.1975, under the direct supervision of a
37 local health officer or a designee of the local health officer pursuant
38 to that section.



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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prescribed by a licensed physician for:

(1) Iontophoresis; or

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

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

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



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

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

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

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

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

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

(a) Board of Medical Examiners, at the direction of the prescribing physician and under the supervision of a physician or physician assistant.

(b) State Board of Osteopathic Medicine, at the direction of the prescribing physician and under the supervision of a physician or physician assistant.

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

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

(a) Performs clinical tasks under the supervision of a physician or physician assistant; and

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

2. The term does not include a person who performs only administrative, clerical, executive or other nonclinical tasks.



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Sec. 4. *The Board may adopt regulations governing the supervision of a medical assistant, including, without limitation, regulations which prescribe limitations on the possession and administration of a dangerous drug by a medical assistant.*

Sec. 5. NRS 630.005 is hereby amended to read as follows:

630.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 630.007 to 630.026, inclusive, ***and section 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 6. NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he or she is not competent to perform or which are beyond the scope of his or her training.

6. Performing, without first obtaining the informed consent of the patient or the patient's family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Habitual intoxication from alcohol or dependency on controlled substances.

9. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

10. Failing to comply with the requirements of NRS 630.254.



11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against the licensee or applicant by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of a license to practice medicine in another jurisdiction.

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

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

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

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

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

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

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

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

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

Sec. 7. (Deleted by amendment.)

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

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

(a) Performs clinical tasks under the supervision of an osteopathic physician or physician assistant; and

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

2. The term does not include a person who performs only administrative, clerical, executive or other nonclinical tasks.

Sec. 10. *The Board may adopt regulations governing the supervision of a medical assistant, including, without limitation, regulations which prescribe limitations on the possession and administration of a dangerous drug by a medical assistant.*

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

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



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- 1 **Sec. 12.** NRS 633.511 is hereby amended to read as follows:
2 633.511 The grounds for initiating disciplinary action pursuant
3 to this chapter are:
4 1. Unprofessional conduct.
5 2. Conviction of:
6 (a) A violation of any federal or state law regulating the
7 possession, distribution or use of any controlled substance or any
8 dangerous drug as defined in chapter 454 of NRS;
9 (b) A felony relating to the practice of osteopathic medicine;
10 (c) A violation of any of the provisions of NRS 616D.200,
11 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;
12 (d) Murder, voluntary manslaughter or mayhem;
13 (e) Any felony involving the use of a firearm or other deadly
14 weapon;
15 (f) Assault with intent to kill or to commit sexual assault or
16 mayhem;
17 (g) Sexual assault, statutory sexual seduction, incest, lewdness,
18 indecent exposure or any other sexually related crime;
19 (h) Abuse or neglect of a child or contributory delinquency; or
20 (i) Any offense involving moral turpitude.
21 3. The suspension of the license to practice osteopathic
22 medicine by any other jurisdiction.
23 4. Malpractice or gross malpractice, which may be evidenced
24 by a claim of malpractice settled against a practitioner.
25 5. Professional incompetence.
26 6. Failure to comply with the requirements of NRS 633.527.
27 7. Failure to comply with the requirements of subsection 3 of
28 NRS 633.471.
29 8. Failure to comply with the provisions of NRS 633.694.
30 9. Operation of a medical facility, as defined in NRS 449.0151,
31 at any time during which:
32 (a) The license of the facility is suspended or revoked; or
33 (b) An act or omission occurs which results in the suspension or
34 revocation of the license pursuant to NRS 449.160.
35 ➤ This subsection applies to an owner or other principal responsible
36 for the operation of the facility.
37 10. Failure to comply with the provisions of subsection 2 of
38 NRS 633.322.
39 11. Signing a blank prescription form.
40 12. Attempting, directly or indirectly, by intimidation, coercion
41 or deception, to obtain or retain a patient or to discourage the use of
42 a second opinion.
43 13. Terminating the medical care of a patient without adequate
44 notice or without making other arrangements for the continued care
45 of the patient.



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

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

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

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

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

Sec. 13. (Deleted by amendment.)

Sec. 14. Chapter 641 of NRS is hereby amended by adding thereto the provisions set forth as sections 15 to 18, inclusive, of this act.

Sec. 15. "Assistant behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, and who is licensed as an assistant behavior analyst by the Board.

Sec. 16. "Autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board.

Sec. 17. "Behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, and who is licensed as a behavior analyst by the Board.

Sec. 18. "Practice of applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior. The term includes the provision of



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behavioral therapy by a behavior analyst, assistant behavior analyst or autism behavior interventionist.

Sec. 19. NRS 641.020 is hereby amended to read as follows:

641.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 641.021 to 641.027, inclusive, *and sections 15 to 18, inclusive, of this act* and 689A.0435 have the meanings ascribed to them in those sections.

Sec. 20. NRS 641.100 is hereby amended to read as follows:

641.100 The Board may make and promulgate rules and regulations not inconsistent with the provisions of this chapter governing its procedure, the examination, licensure and certification of applicants, the granting, refusal, revocation or suspension of licenses and certificates, ~~and~~ the practice of psychology ~~and~~ *and the practice of applied behavior analysis.*

Sec. 21. NRS 641.170 is hereby amended to read as follows:

641.170 1. Each application for licensure as a psychologist must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a doctorate in psychology from an accredited educational institution approved by the Board, or has other doctorate-level training from an accredited educational institution deemed equivalent by the Board in both subject matter and extent of training.

(e) Has at least 2 years of experience satisfactory to the Board, 1 year of which must be postdoctoral experience in accordance with the requirements established by regulations of the Board.

2. Each application for licensure as a behavior analyst must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a master's degree from an accredited college or university in a field of social science or special education ~~approved by the Board.~~ *and holds a current certification as a Board Certified Behavior Analyst by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization.*

(e) Has completed other education, training or experience in accordance with the requirements established by regulations of the Board.



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(f) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

3. Each application for licensure as an assistant behavior analyst must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a bachelor's degree from an accredited college or university in a field of social science or special education approved by the Board **and holds a current certification as a Board Certified Behavior Analyst by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization.**

(e) Has completed other education, training or experience in accordance with the requirements established by regulations of the Board.

(f) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

4. Within 120 days after receiving an application and the accompanying evidence from an applicant, the Board shall:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for licensure; and

(b) Issue a written statement to the applicant of its determination.

5. The written statement issued to the applicant pursuant to subsection 4 must include:

(a) If the Board determines that the qualifications of the applicant are insufficient for licensure, a detailed explanation of the reasons for that determination.

(b) If the applicant for licensure as a psychologist has not earned a doctorate in psychology from an accredited educational institution approved by the Board and the Board determines that the doctorate-level training from an accredited educational institution is not equivalent in subject matter and extent of training, a detailed explanation of the reasons for that determination.

Sec. 22. NRS 641.172 is hereby amended to read as follows:

641.172 1. Each application for certification as an autism behavior interventionist must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 18 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.



(d) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

(e) Has completed satisfactorily a standardized practical examination developed and approved by the Board. The examination must be conducted by the applicant's supervisor, who shall make a videotape or other audio and visual recording of the applicant's performance of the examination for submission to the Board. The Board may review the recording as part of its evaluation of the applicant's qualifications.

2. Within 120 days after receiving an application and the accompanying evidence from an applicant, the Board shall:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for certification as an autism behavior interventionist; and

(b) Issue a written statement to the applicant of its determination.

3. If the Board determines that the qualifications of the applicant are insufficient for certification, the written statement issued to the applicant pursuant to subsection 2 must include a detailed explanation of the reasons for that determination.

Sec. 23. NRS 641.230 is hereby amended to read as follows:

641.230 The Board may suspend ~~[the]~~ *or revoke a person's* license ~~[of]~~ *as a psychologist, behavior analyst or assistant behavior analyst or certificate as an autism behavior interventionist,* place ~~[a psychologist]~~ *the person* on probation, ~~[revoke the license of a psychologist.]~~ require remediation for ~~[a psychologist]~~ *the person* or take any other action specified by regulation if the Board finds by substantial evidence that the ~~[psychologist]~~ *person* has:

1. Been convicted of a felony relating to the practice of psychology ~~[or the practice of applied behavior analysis].~~

2. Been convicted of any crime or offense that reflects the inability of the ~~[psychologist]~~ *person* to practice psychology *or applied behavior analysis* with due regard for the health and safety of others.

3. Been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

4. Engaged in gross malpractice or repeated malpractice or gross negligence in the practice of psychology ~~[or the practice of applied behavior analysis].~~

5. Aided or abetted the practice of psychology by a person not licensed by the Board.

6. Made any fraudulent or untrue statement to the Board.

7. Violated a regulation adopted by the Board.



8. Had a license to practice psychology *or a license or certificate to practice applied behavior analysis* suspended or revoked or has had any other disciplinary action taken against the ~~psychologist~~ *person* by another state or territory of the United States, the District of Columbia or a foreign country, if at least one of the grounds for discipline is the same or substantially equivalent to any ground contained in this chapter.

9. Failed to report to the Board within 30 days the revocation, suspension or surrender of, or any other disciplinary action taken against, a license or certificate to practice psychology *or applied behavior analysis* issued to the ~~psychologist~~ *person* by another state or territory of the United States, the District of Columbia or a foreign country.

10. Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of or conspired to violate a provision of this chapter.

11. Performed or attempted to perform any professional service while impaired by alcohol, drugs or by a mental or physical illness, disorder or disease.

12. Engaged in sexual activity with a patient ~~H~~ *or client*.

13. Been convicted of abuse or fraud in connection with any state or federal program which provides medical assistance.

14. Been convicted of submitting a false claim for payment to the insurer of a patient ~~H~~ *or client*.

15. Operated a medical facility, as defined in NRS 449.0151, at any time during which:

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

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

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

Sec. 24. NRS 641.240 is hereby amended to read as follows:

641.240 1. If the Board, a panel of its members or a hearing officer appointed by the Board finds a person guilty in a disciplinary proceeding, it may:

(a) Administer a public reprimand.

(b) Limit the person's practice.

(c) Suspend the *person's* license *or certificate* for a period of not more than 1 year.

(d) Revoke the *person's* license ~~H~~ *or certificate*.

(e) Impose a fine of not more than \$5,000.

(f) Revoke or suspend the *person's* license *or certificate* and impose a monetary penalty.



1 (g) Suspend the enforcement of any penalty by placing the
2 person on probation. The Board may revoke the probation if the
3 person does not follow any conditions imposed.

4 (h) Require the person to submit to the supervision of or
5 counseling or treatment by a person designated by the Board. The
6 person named in the complaint is responsible for any expense
7 incurred.

8 (i) Impose and modify any conditions of probation for the
9 protection of the public or the rehabilitation of the probationer.

10 (j) Require the person to pay for the costs of remediation or
11 restitution.

12 2. The Board shall not administer a private reprimand.

13 3. An order that imposes discipline and the findings of fact and
14 conclusions of law supporting that order are public records.

15 **Sec. 25.** This act becomes effective upon passage and approval
16 for the purpose of adopting regulations and on January 1, 2012, for
17 all other purposes.

