

SENATE BILL NO. 162—SENATORS HARDY; BROWER,
SEGERBLOM AND SETTELMAYER

FEBRUARY 18, 2013

JOINT SPONSOR: ASSEMBLYMAN EISEN

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions governing the practice of
medicine. (BDR 54-108)

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 professions; revising provisions governing certain reporting requirements for the Board of Medical Examiners; providing for the licensure of administrative osteopathic physicians; prohibiting the Board of Medical Examiners and the State Board of Osteopathic Medicine from issuing a license by endorsement to practice as an administrative physician or as an administrative osteopathic physician, respectively, except for certain limited purposes; revising provisions governing disciplinary action or the denial of licensure by the Board of Medical Examiners or the State Board of Osteopathic Medicine; revising provisions governing certain examinations to determine the competency of a physician, osteopathic physician or physician assistant; revising provisions governing the summary suspension of a license by the Board of Medical Examiners or the State Board of Osteopathic Medicine; revising certain procedural provisions governing the filing of a formal complaint against a licensee by the Board of Medical Examiners or the State Board of Osteopathic Medicine; authorizing the Board of Medical Examiners and the State Board of Osteopathic Medicine to make service of process on a licensee electronically under certain circumstances; and providing other matters properly relating thereto.



Legislative Counsel's Digest:

Existing law generally provides for the licensure and regulation of physicians, physician assistants, perfusionists and practitioners of respiratory care by the Board of Medical Examiners and of osteopathic physicians and physician assistants by the State Board of Osteopathic Medicine. Existing law further prescribes the powers and duties of each board. (Chapters 630 and 633 of NRS) **Section 14.6** of this bill provides for the licensure of administrative osteopathic physicians by the State Board of Osteopathic Medicine.

Existing law requires the Board of Medical Examiners to submit to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the Legislature a biennial report compiling disciplinary action taken by the Board in the previous biennium against any physician for malpractice or negligence. (NRS 630.130) **Section 1** of this bill requires the Board of Medical Examiners to include in the biennial report any disciplinary action taken against a physician assistant, perfusionist or practitioner of respiratory care for malpractice or negligence.

Existing law authorizes the Board of Medical Examiners and the State Board of Osteopathic Medicine to issue a license by endorsement to practice medicine or to practice osteopathic medicine, respectively, to certain qualified applicants who have been issued a license to practice medicine or osteopathic medicine in another state or territory of the United States. (NRS 630.1605, 633.400) **Sections 2 and 16.5** of this bill prohibit the Board of Medical Examiners and the State Board of Osteopathic Medicine from issuing a license by endorsement to practice as an administrative physician or as an administrative osteopathic physician, respectively, except for certain limited purposes.

Existing law provides that certain acts committed by a person licensed by either the Board of Medical Examiners or the State Board of Osteopathic Medicine constitute grounds for disciplinary action or denial of licensure by the respective boards. (NRS 630.306, 630.3062, 630.3065, 630.30665, 630.342, 633.131, 633.511, 633.524) **Sections 5-8, 12 and 16-18** of this bill expand such grounds to those acts which are committed knowingly or willfully by a licensee.

Sections 9 and 19 of this bill provide that the testimony or reports of a person who conducts an examination to determine the competency of a physician on behalf of the Board of Medical Examiners, or an osteopathic physician or physician assistant on behalf of the State Board of Osteopathic Medicine, are not privileged communications.

Sections 10 and 20 of this bill revise provisions relating to the summary suspension of the license of a physician, perfusionist, physician assistant or practitioner of respiratory care by the Board of Medical Examiners, or the license of an osteopathic physician or physician assistant by the State Board of Osteopathic Medicine, pending the conclusion of a hearing to consider a formal complaint against the licensee. **Sections 10 and 20** also require the respective boards to reinstate the license of the licensee under certain circumstances.

Existing law establishes the procedure by which a formal complaint against a physician, perfusionist, physician assistant or practitioner of respiratory care is filed and reviewed by the Board of Medical Examiners. (NRS 630.339) **Section 11** of this bill: (1) authorizes a member of an investigative committee of the Board of Medical Examiners to sign a formal complaint; (2) authorizes rather than requires a respondent to file an answer to a formal complaint; and (3) authorizes the Board or an investigative committee of the Board to proceed with adjudicating the complaint if a respondent fails timely to file an answer.

Existing law provides the manner in which the Board of Medical Examiners and the State Board of Osteopathic Medicine may make service of process upon a licensee. (NRS 630.344, 633.631) **Sections 13 and 22** of this bill authorize the President and Vice President of the Board of Medical Examiners and the State Board of Osteopathic Medicine to cause notice of certain actions to be published in



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55 certain newspapers if personal service on a licensee cannot be made. **Sections 13**
56 **and 22** further authorize the Board of Medical Examiners and the State Board of
57 Osteopathic Medicine to make service of process on a licensee electronically if the
58 licensee consents to electronic service of process in writing.

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

- 1 **Section 1.** NRS 630.130 is hereby amended to read as follows:
2 630.130 1. In addition to the other powers and duties
3 provided in this chapter, the Board shall, in the interest of the public,
4 judiciously:
5 (a) Enforce the provisions of this chapter;
6 (b) Establish by regulation standards for licensure under this
7 chapter;
8 (c) Conduct examinations for licensure and establish a system of
9 scoring for those examinations;
10 (d) Investigate the character of each applicant for a license and
11 issue licenses to those applicants who meet the qualifications set by
12 this chapter and the Board; and
13 (e) Institute a proceeding in any court to enforce its orders or the
14 provisions of this chapter.
15 2. On or before February 15 of each odd-numbered year, the
16 Board shall submit to the Governor and to the Director of the
17 Legislative Counsel Bureau for transmittal to the next regular
18 session of the Legislature a written report compiling:
19 (a) Disciplinary action taken by the Board during the previous
20 biennium against ~~physicians~~ *any physician, physician assistant,*
21 *perfusionist or practitioner of respiratory care* for malpractice or
22 negligence;
23 (b) Information reported to the Board during the previous
24 biennium pursuant to NRS 630.3067, 630.3068, subsections 3 and 6
25 of NRS 630.307 and NRS 690B.250 and 690B.260; and
26 (c) Information reported to the Board during the previous
27 biennium pursuant to NRS 630.30665, including, without limitation,
28 the number and types of surgeries performed by each holder of a
29 license to practice medicine and the occurrence of sentinel events
30 arising from such surgeries, if any.
31 ➤ The report must include only aggregate information for statistical
32 purposes and exclude any identifying information related to a
33 particular person.
34 3. The Board may adopt such regulations as are necessary or
35 desirable to enable it to carry out the provisions of this chapter.



Sec. 2. NRS 630.1605 is hereby amended to read as follows:

630.1605 1. Except as otherwise provided in **subsection 3 and** NRS 630.161, the Board may issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

(a) At the time the applicant files an application with the Board, the license is in effect;

(b) The applicant:

(1) Submits to the Board proof of passage of an examination approved by the Board;

(2) Submits to the Board any documentation and other proof of qualifications required by the Board;

(3) Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and

(4) Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and

(c) Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.

2. A license by endorsement to practice medicine may be issued at a meeting of the Board or between its meetings by the President and Executive Director of the Board. Such an action shall be deemed to be an action of the Board.

3. The Board shall not issue a license by endorsement to practice as an administrative physician except for the limited purpose of practicing as an administrative physician as an:

(a) Officer or employee of a state agency; or

(b) Independent contractor pursuant to a contract with the State.

Sec. 3. NRS 630.257 is hereby amended to read as follows:

630.257 If a licensee does not **engage in the** practice ~~of allopathic~~ of medicine for a period of more than 12 consecutive months, the Board may require the licensee to take the same examination to test medical competency as that given to applicants for a license.

Sec. 4. 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}~~ **Commission** on Accreditation for Respiratory Care or
2 its successor organization;

3 (c) Pass the examination as an entry-level or advanced
4 practitioner of respiratory care administered by the National Board
5 for Respiratory Care or its successor organization;

6 (d) Be certified by the National Board for Respiratory Care or
7 its successor organization; and

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

10 2. Except as otherwise provided in subsection 3, a person shall
11 not:

12 (a) Practice respiratory care; or

13 (b) Hold himself or herself out as qualified to practice
14 respiratory care,

15 ➔ in this State without complying with the provisions of
16 subsection 1.

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

22 **Sec. 5.** NRS 630.306 is hereby amended to read as follows:

23 630.306 The following acts, among others, constitute grounds
24 for initiating disciplinary action or denying licensure:

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

28 2. Engaging in any conduct:

29 (a) Which is intended to deceive;

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

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

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

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

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

44 6. Performing, without first obtaining the informed consent of
45 the patient or the patient's family, any procedure or prescribing any



1 therapy which by the current standards of the practice of medicine is
2 experimental.

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

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

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

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

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

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

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

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

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

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

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

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

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

35 17. Knowingly *or willfully* procuring or administering a
36 controlled substance or a dangerous drug as defined in chapter 454
37 of NRS that is not approved by the United States Food and Drug
38 Administration, unless the unapproved controlled substance or
39 dangerous drug:

40 (a) Was procured through a retail pharmacy licensed pursuant to
41 chapter 639 of NRS;

42 (b) Was procured through a Canadian pharmacy which is
43 licensed pursuant to chapter 639 of NRS and which has been
44 recommended by the State Board of Pharmacy pursuant to
45 subsection 4 of NRS 639.2328; or



(c) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS.

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

Sec. 6. NRS 630.3062 is hereby amended to read as follows:

630.3062 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

2. Altering medical records of a patient.

3. Making or filing a report which the licensee knows to be false, failing to file a record or report as required by law or *knowingly or* willfully obstructing or inducing another to obstruct such filing.

4. Failure to make the medical records of a patient available for inspection and copying as provided in NRS 629.061.

5. Failure to comply with the requirements of NRS 630.3068.

6. 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~~ *not later than* 30 days after the date the licensee knows or has reason to know of the violation.

Sec. 7. NRS 630.3065 is hereby amended to read as follows:

630.3065 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. ~~Willful disclosure of~~ *Knowingly or willfully disclosing* a communication privileged pursuant to a statute or court order.

2. ~~Willful failure~~ *Knowingly or willfully failing* to comply with:

(a) A regulation, subpoena or order of the Board or a committee designated by the Board to investigate a complaint against a physician;

(b) A court order relating to this chapter; or

(c) A provision of this chapter.

3. ~~Willful failure~~ *Knowingly or willfully failing* to perform a statutory or other legal obligation imposed upon a licensed physician, including a violation of the provisions of NRS 439B.410.

Sec. 8. NRS 630.30665 is hereby amended to read as follows:

630.30665 1. The Board shall require each holder of a license to practice medicine to submit 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:



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(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 to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the State Board of Health for reporting information pursuant to NRS 439.835.

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

(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 *or willfully* 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~~ *not later than* 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, 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 6.

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

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



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1 depressed consciousness or unconsciousness similar to general
2 anesthesia, deep sedation or conscious sedation.

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

16 9. As used in this section:

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

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

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

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

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

30 **Sec. 9.** NRS 630.318 is hereby amended to read as follows:

31 630.318 1. If the Board or any investigative committee of the
32 Board has reason to believe that the conduct of any physician has
33 raised a reasonable question as to his or her competence to practice
34 medicine with reasonable skill and safety to patients, or if the Board
35 has received a report pursuant to the provisions of NRS 630.3067,
36 630.3068, 690B.250 or 690B.260 indicating that a judgment has
37 been rendered or an award has been made against a physician
38 regarding an action or claim for malpractice or that such an action or
39 claim against the physician has been resolved by settlement, ~~the~~ **the**
40 **Board or committee** may order that the physician undergo a mental
41 or physical examination, ~~for~~ an examination testing his or her
42 competence to practice medicine ~~by physicians~~ or **any** other
43 ~~examinations~~ **examination** designated by the Board to assist the
44 Board or committee in determining the fitness of the physician to
45 practice medicine.



2. For the purposes of this section:

(a) Every physician who applies for a license or who is licensed under this chapter shall be deemed to have given consent to submit to a mental or physical examination or an examination testing his or her competence to practice medicine when ordered to do so in writing by the Board or an investigative committee of the Board.

(b) The testimony or reports of ~~the examining physicians~~ *a person who conducts an examination of a physician on behalf of the Board or an investigative committee of the Board pursuant to this section* are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician licensed under this chapter to submit to an examination when directed as provided in this section constitutes an admission of the charges against the physician.

Sec. 10. NRS 630.326 is hereby amended to read as follows:

630.326 1. If an investigation by the Board regarding a physician, perfusionist, physician assistant or practitioner of respiratory care reasonably determines that the health, safety or welfare of the public or any patient served by the ~~physician, perfusionist, physician assistant or practitioner of respiratory care~~ *licensee* is at risk of imminent or continued harm, the Board may summarily suspend the license of the ~~physician, perfusionist, physician assistant or practitioner of respiratory care~~ *licensee pending the conclusion of a hearing to consider a formal complaint against the licensee.* The order of summary suspension may be issued *only* by the Board ~~or~~ *or* an investigative committee of the Board . ~~for the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.~~

2. If the Board issues an order summarily suspending the license of a physician, perfusionist, physician assistant or practitioner of respiratory care pursuant to subsection 1, the Board shall hold a hearing ~~regarding the matter~~ not later than ~~45~~ *60* days after the date on which the Board issues the order summarily suspending the license , unless the Board and the licensee mutually agree to a longer period ~~or~~ *, to determine whether a reasonable basis exists to continue the suspension of the license pending the conclusion of any hearing to consider a formal complaint against the licensee. If no formal complaint against the licensee is pending before the Board on the date on which a hearing is held pursuant to this section, the Board shall reinstate the license of the licensee.*

3. If the Board issues an order *summarily* suspending the license of a physician, perfusionist, physician assistant or practitioner of respiratory care ~~pending proceedings for disciplinary~~



1 ~~action~~ *pursuant to subsection 1* and *the Board* requires the
2 ~~{physician, perfusionist, physician assistant or practitioner of~~
3 ~~respiratory care}~~ *licensee* to submit to a mental or physical
4 examination or an examination testing his or her competence to
5 practice, the examination must be conducted and the results
6 obtained not later than ~~{60}~~ *30* days after the Board issues its order.

7 **Sec. 11.** NRS 630.339 is hereby amended to read as follows:

8 630.339 1. If a committee designated by the Board to
9 conduct an investigation of a complaint decides to proceed with
10 disciplinary action, it shall bring charges against the licensee by
11 filing a formal complaint. The formal complaint must include a
12 written statement setting forth the charges alleged and setting forth
13 in concise and plain language each act or omission of the respondent
14 upon which the charges are based. The formal complaint must be
15 prepared with sufficient clarity to ensure that the respondent is able
16 to prepare a defense. The formal complaint must specify any
17 applicable law or regulation that the respondent is alleged to have
18 violated. The formal complaint may be signed by the chair *or any*
19 *member* of the investigative committee. ~~{for the Executive Director~~
20 ~~of the Board acting in his or her official capacity.}~~

21 2. The respondent ~~{shall}~~ *may* file an answer to the formal
22 complaint ~~{within}~~ *not later than* 20 days after service of the
23 complaint upon the respondent. ~~{The}~~ *An* answer must state in
24 concise and plain language the respondent's defenses to each charge
25 set forth in the complaint and must admit or deny the averments
26 stated in the complaint. If a party fails to file an answer within the
27 time prescribed, the party shall be deemed to have denied generally
28 the allegations of the formal complaint ~~{}~~ *and the Board or an*
29 *investigative committee of the Board may proceed pursuant to this*
30 *section as if the answer were timely filed.*

31 3. ~~{Within}~~ *Not later than* 20 days after the filing of ~~{the}~~ *an*
32 answer ~~{}~~ *or 20 days after the date on which an answer is due,*
33 *whichever is earlier,* the parties shall hold an early case conference
34 at which the parties and ~~{the}~~ *a* hearing officer appointed by the
35 Board or a member of the Board must preside. At the early case
36 conference, the parties shall in good faith:

37 (a) Set the earliest possible hearing date agreeable to the parties
38 and the hearing officer, panel of the Board or the Board, including
39 the estimated duration of the hearing;

40 (b) Set dates:

- 41 (1) By which all documents must be exchanged;
42 (2) By which all prehearing motions and responses thereto
43 must be filed;
44 (3) On which to hold the prehearing conference; and



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(4) For any other foreseeable actions that may be required for the matter;

(c) Discuss or attempt to resolve all or any portion of the evidentiary or legal issues in the matter;

(d) Discuss the potential for settlement of the matter on terms agreeable to the parties; and

(e) Discuss and deliberate any other issues that may facilitate the timely and fair conduct of the matter.

4. If the Board receives a report pursuant to subsection 5 of NRS 228.420, such a hearing must be held ~~within~~ *not later than* 30 days after receiving the report. The Board shall notify the licensee of the charges brought against him or her, the time and place set for the hearing, and the possible sanctions authorized in NRS 630.352.

5. A formal hearing must be held at the time and date set at the early case conference by:

(a) The Board;

(b) A hearing officer;

(c) A member of the Board designated by the Board or an investigative committee of the Board;

(d) A panel of members of the Board designated by an investigative committee of the Board or the Board;

(e) A hearing officer together with not more than one member of the Board designated by an investigative committee of the Board or the Board; or

(f) A hearing officer together with a panel of members of the Board designated by an investigative committee of the Board or the Board. If the hearing is before a panel, at least one member of the panel must not be a physician.

6. At any hearing at which at least one member of the Board presides, whether in combination with a hearing officer or other members of the Board, the final determinations regarding credibility, weight of evidence and whether the charges have been proven must be made by the members of the Board. If a hearing officer presides together with one or more members of the Board, the hearing officer shall:

(a) Conduct the hearing;

(b) In consultation with each member of the Board, make rulings upon any objections raised at the hearing;

(c) In consultation with each member of the Board, make rulings concerning any motions made during or after the hearing; and

(d) ~~Within~~ *Not later than* 30 days after the conclusion of the hearing, prepare and file with the Board written findings of fact and conclusions of law in accordance with the determinations made by each member of the Board.



1 **Sec. 12.** NRS 630.342 is hereby amended to read as follows:

2 630.342 1. Any licensee against whom the Board initiates
3 disciplinary action pursuant to this chapter shall, ~~within~~ *not later*
4 *than* 30 days after the licensee's receipt of notification of the
5 initiation of the disciplinary action, submit to the Board a complete
6 set of fingerprints and written permission authorizing the Board to
7 forward the fingerprints to the Central Repository for Nevada
8 Records of Criminal History for submission to the Federal Bureau
9 of Investigation for its report.

10 2. The *knowing or* willful failure of a licensee to comply with
11 the requirements of subsection 1 constitutes additional grounds for
12 disciplinary action and the revocation of the license of the licensee.

13 3. The Board has additional grounds for initiating disciplinary
14 action against a licensee if the report from the Federal Bureau of
15 Investigation indicates that the licensee has been convicted of:

16 (a) An act that is a ground for disciplinary action pursuant to
17 NRS 630.301 to 630.3066, inclusive; or

18 (b) A violation of NRS 630.400.

19 **Sec. 13.** NRS 630.344 is hereby amended to read as follows:

20 630.344 1. Service of process under this chapter must be
21 made on a licensee ~~personally, or by~~ :

22 (a) *Personally*;

23 (b) *By* registered or certified mail with return receipt requested
24 addressed to the licensee at his or her last known address ~~or~~ ; *or*

25 (c) *If the Board obtains written consent from the licensee,*
26 *electronically at an electronic mail address designated by the*
27 *licensee in the written consent.*

28 2. If ~~personal~~ service *of process* cannot be made ~~and if~~
29 ~~notice by mail is returned undelivered,~~ *pursuant to subsection 1,*
30 the *President, Vice President or* Secretary-Treasurer of the Board
31 shall cause notice to be published once a week for 4 consecutive
32 weeks in a newspaper published in the county of the last known
33 address of the licensee or, if no newspaper is published in that
34 county, then in a newspaper widely distributed in that county.

35 ~~2-~~ 3. Proof of service of process or publication of notice
36 made under this chapter must be filed with the Board and *may be*
37 recorded in the minutes of the Board.

38 4. *The Board shall prescribe by regulation a reasonable*
39 *method and procedure by which the Board may make service of*
40 *process electronically pursuant to subsection 1.*

41 **Sec. 14.** NRS 630.405 is hereby amended to read as follows:

42 630.405 A physician licensed pursuant to this chapter who
43 *knowingly or* willfully fails or refuses to make the health care
44 records of a patient available for physical inspection or copying as
45 provided in NRS 629.061 is guilty of a misdemeanor.



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1 **Sec. 14.2.** Chapter 633 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 14.4 and 14.6 of this act.

3 **Sec. 14.4.** *“Administrative osteopathic physician” means an*
4 *osteopathic physician who is licensed only to act in an*
5 *administrative capacity as an:*

6 1. *Officer or employee of a state agency;*

7 2. *Independent contractor pursuant to a contract with the*
8 *State; or*

9 3. *Officer, employee or independent contractor of a private*
10 *insurance company, medical facility or medical care organization,*
11 *and who does not examine or treat patients in a clinical setting.*

12 **Sec. 14.6.** 1. *A person may apply to the Board to be*
13 *licensed as an administrative osteopathic physician if the person*
14 *meets all the statutory requirements for licensure in effect at the*
15 *time of application.*

16 2. *A person who is licensed as an administrative osteopathic*
17 *physician pursuant to this section:*

18 (a) *May not engage in the practice of clinical osteopathic*
19 *medicine;*

20 (b) *Shall comply with all the statutory requirements for*
21 *continued licensure pursuant to this chapter; and*

22 (c) *Shall be deemed to hold a license to practice osteopathic*
23 *medicine in an administrative capacity only.*

24 **Sec. 14.8.** NRS 633.011 is hereby amended to read as follows:
25 633.011 As used in this chapter, unless the context otherwise
26 requires, the words and terms defined in NRS 633.021 to 633.131,
27 inclusive, *and section 14.4 of this act* have the meanings ascribed to
28 them in those sections.

29 **Sec. 15.** NRS 633.041 is hereby amended to read as follows:

30 633.041 “Gross malpractice” means malpractice where the
31 failure to exercise the requisite degree of care, diligence or skill
32 consists of:

33 1. Performing surgery upon or otherwise ministering to a
34 patient while the osteopathic physician is under the influence of
35 alcohol or any controlled substance;

36 2. Gross negligence;

37 3. ~~Willful~~ *Knowing or willful* disregard of established
38 medical procedures; or

39 4. ~~Willful~~ *Knowing or willful* and consistent use of medical
40 procedures, services or treatment considered by osteopathic
41 physicians in the community to be inappropriate or unnecessary in
42 the cases where used.

43 **Sec. 16.** NRS 633.131 is hereby amended to read as follows:

44 633.131 1. “Unprofessional conduct” includes:



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(a) ~~Willfully~~ **Knowingly or willfully** making a false or fraudulent statement or submitting a forged or false document in applying for a license to practice osteopathic medicine or to practice as a physician assistant, or in applying for the renewal of a license to practice osteopathic medicine or to practice as a physician assistant.

(b) Failure of a person who is licensed to practice osteopathic medicine to identify himself or herself professionally by using the term D.O., osteopathic physician, doctor of osteopathy or a similar term.

(c) Directly or indirectly giving to or receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation for sending, referring or otherwise inducing a person to communicate with an osteopathic physician in his or her professional capacity or for any professional services not actually and personally rendered, except as otherwise provided in subsection 2.

(d) Employing, directly or indirectly, any suspended or unlicensed person in the practice of osteopathic medicine or in practice as a physician assistant, or the aiding or abetting of any unlicensed person to practice osteopathic medicine or to practice as a physician assistant.

(e) Advertising the practice of osteopathic medicine in a manner which does not conform to the guidelines established by regulations of the Board.

(f) Engaging in any:

(1) Professional conduct which is intended to deceive or which the Board by regulation has determined is unethical; or

(2) Medical practice harmful to the public or any conduct detrimental to the public health, safety or morals which does not constitute gross or repeated malpractice or professional incompetence.

(g) Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, otherwise than in the course of legitimate professional practice or as authorized by law.

(h) Habitual drunkenness or habitual addiction to the use of a controlled substance.

(i) Performing, assisting in or advising an unlawful abortion or the injection of any liquid silicone substance into the human body, other than the use of silicone oil to repair a retinal detachment.

(j) ~~Willful disclosure of~~ **Knowingly or willfully disclosing** a communication privileged pursuant to a statute or court order.

(k) ~~Willful disobedience of the~~ **Knowingly or willfully disobeying** regulations of the State Board of Health, the State Board of Pharmacy or the State Board of Osteopathic Medicine.



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(l) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any prohibition made in this chapter.

(m) Failure of a licensee to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

(n) Making alterations to the medical records of a patient that the licensee knows to be false.

(o) Making or filing a report which the licensee knows to be false.

(p) Failure of a licensee to file a record or report as required by law, or **knowingly or** willfully obstructing or inducing any person to obstruct such filing.

(q) Failure of a licensee to make medical records of a patient available for inspection and copying as provided by NRS 629.061.

(r) Providing false, misleading or deceptive information to the Board in connection with an investigation conducted by the Board.

2. It is not unprofessional conduct:

(a) For persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to practice osteopathic medicine in partnership under a partnership agreement or in a corporation or an association authorized by law, or to pool, share, divide or apportion the fees and money received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association;

(b) For two or more persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to receive adequate compensation for concurrently rendering professional care to a patient and dividing a fee if the patient has full knowledge of this division and if the division is made in proportion to the services performed and the responsibility assumed by each person; or

(c) For a person licensed to practice osteopathic medicine pursuant to the provisions of this chapter to form an association or other business relationship with an optometrist pursuant to the provisions of NRS 636.373.

Sec. 16.5. NRS 633.400 is hereby amended to read as follows:

633.400 1. Except as otherwise provided in **subsection 4 and** NRS 633.315, the Board shall, except for good cause, issue a license by endorsement to a person who has been issued a license to practice osteopathic medicine by the District of Columbia or any state or territory of the United States if:

(a) At the time the person files an application with the Board, the license is in effect and unrestricted; and

(b) The applicant:



(1) Is currently certified by either a specialty board of the American Board of Medical Specialties or a specialty board of the American Osteopathic Association, or was certified or recertified within the past 10 years;

(2) Has had no adverse actions reported to the National Practitioner Data Bank within the past 5 years;

(3) Has been continuously and actively engaged in the practice of osteopathic medicine within his or her specialty for the past 5 years;

(4) Is not involved in and does not have pending any disciplinary action concerning a license to practice osteopathic medicine in the District of Columbia or any state or territory of the United States;

(5) Provides information on all the medical malpractice claims brought against him or her, without regard to when the claims were filed or how the claims were resolved; and

(6) Meets all statutory requirements to obtain a license to practice osteopathic medicine in this State except that the applicant is not required to meet the requirements set forth in NRS 633.311.

2. Any person applying for a license pursuant to this section shall pay in advance to the Board the application and initial license fee specified in this chapter.

3. A license by endorsement may be issued at a meeting of the Board or between its meetings by its President and Executive Director. Such action shall be deemed to be an action of the Board.

4. The Board shall not issue a license by endorsement to practice as an administrative osteopathic physician except for the limited purpose of practicing as an administrative osteopathic physician as an:

(a) Officer or employee of a state agency; or

(b) Independent contractor pursuant to a contract with the State.

Sec. 17. NRS 633.511 is hereby amended to read as follows:

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

1. Unprofessional conduct.

2. Conviction of:

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

(b) A felony relating to the practice of osteopathic medicine or practice as a physician assistant;

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

(d) Murder, voluntary manslaughter or mayhem;



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

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

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

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

(i) Any offense involving moral turpitude.

3. The suspension of a license to practice osteopathic medicine or to practice as a physician assistant by any other jurisdiction.

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

5. Professional incompetence.

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

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

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

9. Operation of a medical facility, as defined in NRS 449.0151, 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.

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

11. Signing a blank prescription form.

12. Knowingly *or willfully* procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:

(a) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(b) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or

(c) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS.

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



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

15. 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 *knowingly or* willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

16. 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~~ *not later than* 30 days after the date the licensee knows or has reason to know of the violation.

17. 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.

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

19. Failure to comply with the provisions of NRS 633.165.

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

Sec. 18. 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 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 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:



(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 **or willfully** 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}~~ **not later than** 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, 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 6.

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

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.

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 **or willfully** 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



1 the severity of the violation and may provide for a more severe
2 penalty for multiple violations.

3 9. As used in this section:

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

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

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

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

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

17 **Sec. 19.** NRS 633.529 is hereby amended to read as follows:

18 633.529 1. Notwithstanding the provisions of chapter 622A
19 of NRS, if the Board receives a report pursuant to the provisions of
20 NRS 633.526, 633.527, 690B.250 or 690B.260 indicating that a
21 judgment has been rendered or an award has been made against an
22 osteopathic physician or physician assistant regarding an action or
23 claim for malpractice, or that such an action or claim against the
24 osteopathic physician or physician assistant has been resolved by
25 settlement, the Board may order the osteopathic physician or
26 physician assistant to undergo a mental or physical examination or
27 any other examination designated by the Board to test his or her
28 competence to practice osteopathic medicine or to practice as a
29 physician assistant, as applicable. An examination conducted
30 pursuant to this subsection must be conducted by ~~osteopathic~~
31 ~~physicians~~ *a person* designated by the Board.

32 2. For the purposes of this section:

33 (a) An osteopathic physician or physician assistant who applies
34 for a license or who holds a license under this chapter is deemed to
35 have given consent to submit to a mental or physical examination or
36 an examination testing his or her competence to practice osteopathic
37 medicine or to practice as a physician assistant, as applicable,
38 pursuant to a written order by the Board.

39 (b) The testimony or reports of ~~the examining osteopathic~~
40 ~~physician~~ *a person who conducts an examination of an*
41 *osteopathic physician or physician assistant on behalf of the*
42 *Board pursuant to this section* are not privileged communications.

43 **Sec. 20.** NRS 633.581 is hereby amended to read as follows:

44 633.581 1. If an investigation by the Board of an osteopathic
45 physician or physician assistant reasonably determines that the



1 health, safety or welfare of the public or any patient served by the
2 osteopathic physician or physician assistant is at risk of imminent or
3 continued harm, the Board may summarily suspend the license of
4 the ~~osteopathic physician or physician assistant~~ *licensee pending*
5 *the conclusion of a hearing to consider a formal complaint against*
6 *the licensee.* The order of summary suspension may be issued *only*
7 by the Board ~~or~~ *or* an investigative committee of the Board. ~~for the~~
8 ~~Executive Director of the Board after consultation with the~~
9 ~~President, Vice President or Secretary-Treasurer of the Board.~~

10 2. If the Board issues an order summarily suspending the
11 license of an osteopathic physician or physician assistant pursuant to
12 subsection 1, the Board shall hold a hearing ~~regarding the matter~~
13 not later than ~~45~~ *60* days after the date on which the Board issues
14 the order summarily suspending the license, unless the Board and
15 the licensee mutually agree to a longer period ~~or~~ *, to determine*
16 *whether a reasonable basis exists to continue the suspension of the*
17 *license pending the conclusion of a hearing to consider a formal*
18 *complaint against the licensee. If no formal complaint against the*
19 *licensee is pending before the Board on the date on which a*
20 *hearing is held pursuant to this section, the Board shall reinstate*
21 *the license of the licensee.*

22 3. Notwithstanding the provisions of chapter 622A of NRS, if
23 the Board issues an order summarily suspending the license of an
24 osteopathic physician or physician assistant ~~pending a proceeding~~
25 ~~for disciplinary action~~ *pursuant to subsection 1 and the Board*
26 requires the ~~osteopathic physician or physician assistant~~ *licensee*
27 to submit to a mental or physical examination or a medical
28 competency examination, the examination must be conducted and
29 the results must be obtained not later than ~~60~~ *30* days after the
30 Board issues the order.

31 **Sec. 21.** NRS 633.625 is hereby amended to read as follows:

32 633.625 1. Any licensee against whom the Board initiates
33 disciplinary action pursuant to this chapter shall, within 30 days
34 after the licensee's receipt of notification of the initiation of the
35 disciplinary action, submit to the Board a complete set of
36 fingerprints and written permission authorizing the Board to forward
37 the fingerprints to the Central Repository for Nevada Records of
38 Criminal History for submission to the Federal Bureau of
39 Investigation for its report.

40 2. The *knowing or* willful failure of a licensee to comply with
41 the requirements of subsection 1 constitutes additional grounds for
42 disciplinary action and the revocation of the license of the licensee.

43 3. The Board has additional grounds for initiating disciplinary
44 action against a licensee if the report from the Federal Bureau of
45 Investigation indicates that the licensee has been convicted of:



1 (a) An act that is a ground for disciplinary action pursuant to
2 NRS 633.511; or

3 (b) A felony set forth in NRS 633.741.

4 **Sec. 22.** NRS 633.631 is hereby amended to read as follows:

5 633.631 Except as otherwise provided in chapter 622A of
6 NRS:

7 1. Service of process made under this chapter must be ~~either~~
8 ~~personal or by~~ *made on a licensee:*

9 (a) *Personally;*

10 (b) *By* registered or certified mail with return receipt requested,
11 addressed to the osteopathic physician or physician assistant at his
12 or her last known address, as indicated in the records of the Board
13 ~~+~~; or

14 (c) *If the Board obtains written consent from the licensee,*
15 *electronically at an electronic mail address designated by the*
16 *licensee in the written consent.*

17 2. If ~~personal~~ service *of process* cannot be made ~~and if mail~~
18 ~~notice is returned undelivered,~~ *pursuant to subsection 1,* the
19 *President, Vice President or* Secretary of the Board shall cause a
20 notice of hearing to be published once a week for 4 consecutive
21 weeks in a newspaper published in the county of the last known
22 address of the osteopathic physician or physician assistant or, if no
23 newspaper is published in that county, in a newspaper widely
24 distributed in that county.

25 ~~2-~~ 3. Proof of service of process or publication of notice
26 made under this chapter must be filed with the Secretary of the
27 Board and ~~must~~ *may* be recorded in the minutes of the Board.

28 4. *The Board shall prescribe by regulation a reasonable*
29 *method and procedure by which the Board may make service of*
30 *process electronically pursuant to subsection 1.*

