

Amendment No. 59

Senate Amendment to Senate Bill No. 101	(BDR 40-677)
Proposed by: Senate Committee on Health and Human Services	
Amends: Summary: No Title: Yes Preamble: Add Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

EWR/JWP



Date: 4/7/2017

S.B. No. 101—Restricts the authority to administer botulinum toxin to certain medical professionals. (BDR 40-677)



SENATE BILL NO. 101—SENATOR HARDY

PREFILED FEBRUARY 3, 2017

Referred to Committee on Health and Human Services

SUMMARY—Restricts the authority to administer botulinum toxin to certain medical professionals. (BDR 40-677)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: No.

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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~~ prohibiting the administration of botulinum toxin and dermal and soft tissue fillers by certain ~~medical professionals;~~ persons and under certain conditions; authorizing the imposition of professional discipline against persons who violate such a prohibition; requiring certain persons to receive training before administering botulinum toxin or dermal or soft tissue fillers; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a medical assistant who is directed and supervised by a physician or physician assistant or a licensed dental hygienist who is directed and supervised by a dentist to possess and administer dangerous drugs under certain circumstances. (NRS 454.213) Existing law further requires the Board of Medical Examiners to adopt regulations governing the administration of botulinum toxin, commonly known as Botox, by a medical assistant or any person under the jurisdiction of the Board. (NRS 630.047, 630.138)

This bill revises provisions governing the administration of botulinum toxin ~~and~~ dermal or soft tissue fillers. Section 2 of this bill removes the requirement for the Board of Medical Examiners to adopt regulations governing the administration of botulinum toxin by a medical assistant. ~~and, instead, section~~ Instead, sections 1 and 1.8 of this bill ~~prohibits medical assistants and licensed dental hygienists~~ prohibit: (1) any person other than a physician, physician assistant, dentist, registered nurse, advanced practice registered nurse or podiatric physician who has received training prescribed by his or her licensing board from administering botulinum toxin. ~~Sections 3 and 7 of this bill provide that a physician or osteopathic physician who delegates the administration of botulinum toxin to a medical assistant or otherwise allows a medical assistant to administer botulinum toxin is subject to disciplinary action by the Board of Medical Examiners or the State Board of Osteopathic Medicine, respectively. Sections 4 6 of this bill: (1) prohibit a dentist from assigning the administration of botulinum toxin to any person other than a licensed dentist; (2) provide that a dentist is subject to disciplinary action by the Board of Dental Examiners of Nevada for assigning the administration of botulinum toxin to any person other than a licensed dentist or administering botulinum toxin outside the scope of the practice of dentistry; and (3)~~

~~provide that a dental hygienist is subject to disciplinary action by the Board of Dental Examiners of Nevada for administering botulinum toxin,] or dermal or soft tissue fillers; (2) such persons from delegating the administration of botulinum toxin or dermal or soft tissue fillers to an unauthorized person; and (3) any person from administering botulinum toxin or dermal or soft tissue fillers outside his or her scope of practice or in a location other than a medical facility or the office of an authorized medical professional. Sections 1.3, 4 and 6.6 of this bill make conforming changes to clarify that unauthorized medical professionals are prohibited from administering botulinum toxin and dermal or soft tissue fillers. Sections 1.9, 3.3, 6.4, 6.9 and 7.2 of this bill require the Board of Medical Examiners, Board of Dental Examiners of Nevada, State Board of Nursing, State Board of Osteopathic Medicine and State Board of Podiatry, respectively, to prescribe training for physicians and physician assistants, dentists, registered nurses, advanced practice registered nurses, osteopathic physicians and physician assistants and podiatric physicians, as applicable, who wish to administer botulinum toxin or dermal or soft tissue fillers.~~

~~Existing law generally provides that a violation of the provisions of law governing dangerous drugs is a misdemeanor and grounds for the suspension or revocation of certain professional licenses. (NRS 454.356, 454.361) Existing law further provides that a person who violates a provision of law governing dangerous drugs by using a minor as an agent or who illegally provides a dangerous drug to a minor is guilty of a category B felony. (NRS 454.306) Sections 1.4-1.6 of this bill make these provisions applicable to the unauthorized administration of or delegation of the administration of botulinum toxin. Section 1.8 of this bill similarly makes the unauthorized administration of or delegation of the administration of dermal or soft tissue fillers a misdemeanor. Sections 3, 6, 6.8, 7, 7.5 and 7.8 of this bill authorize the Board of Medical Examiners, Board of Dental Examiners of Nevada, State Board of Nursing, State Board of Osteopathic Medicine, State Board of Podiatry and State Board of Cosmetology to impose disciplinary action against licensees who violate prohibitions on the unauthorized administration of or delegation of the administration of botulinum toxin or dermal or soft tissue fillers.~~

~~Section 1.2 of this bill updates the definition of the term "dangerous drug" to reflect the current terminology used in federal regulations.~~

WHEREAS, Botulinum toxin, commonly known as Botox, is considered a dangerous drug in this State; and

WHEREAS, Only certain medical professionals are authorized under the law of this State to administer dangerous drugs; and

WHEREAS, The improper administration of botulinum toxin and dermal and soft tissue fillers can cause significant harmful side effects; and

WHEREAS, Persons who lack the necessary training or proper credentials are currently not restricted from administering botulinum toxin and dermal and soft tissue fillers in this State; and

WHEREAS, To promote the health, safety and welfare of the residents of this State, it is the intent of the Legislature to clearly define the persons who are authorized to administer botulinum toxin and dermal and soft tissue fillers, and the conditions under which such administration may occur; now, therefore,

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

Section 1. Chapter 454 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not administer botulinum toxin:

(a) Unless the person is:

(1) A physician or physician assistant licensed pursuant to chapter 630 of NRS who has successfully completed the training prescribed by the Board of Medical Examiners pursuant to section 1.9 of this act;

(2) A dentist who has successfully completed the training prescribed by the Board of Dental Examiners of Nevada pursuant to section 3.3 of this act;

(3) A registered nurse or advanced practice registered nurse who has successfully completed the training prescribed by the State Board of Nursing pursuant to section 6.4 of this act;

(4) A physician or physician assistant licensed pursuant to chapter 633 of NRS who has successfully completed the training prescribed by the State Board of Osteopathic Medicine pursuant to 6.9 of this act; or

(5) A podiatric physician who has successfully completed the training prescribed by the State Board of Podiatry pursuant to section 7.2 of this act.

(b) Outside his or her scope of practice.

(c) At a location other than a medical facility, as defined in NRS 449.0151, or the office of a physician or physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, advanced practice registered nurse or podiatric physician.

2. A person who is authorized by subsection 1 to administer botulinum toxin shall not delegate such administration to a person who is prohibited by subsection 1 from administering botulinum toxin.

Sec. 1.1. NRS 454.181 is hereby amended to read as follows:

454.181 Definitions of words and terms in NRS 454.00922, 454.191, 454.201 and 454.211 apply only to NRS 454.181 to 454.371, inclusive, and section 1 of this act.

Sec. 1.15. NRS 454.191 is hereby amended to read as follows:

454.191 "Administer" means the direct application of a drug or medicine referred to in NRS 454.181 to 454.371, inclusive, and section 1 of this act, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject.

Sec. 1.2. NRS 454.201 is hereby amended to read as follows:

454.201 "Dangerous drug" means any drug, other than a controlled substance, unsafe for self-medication or unsupervised use, and includes the following:

1. Any drug which has been approved by the Food and Drug Administration for general distribution and bears the legend ~~1. "Caution: Federal law prohibits dispensing without prescription";~~ "Rx only";

2. Procaine hydrochloride with preservatives and stabilizers (Gerovital H3) in injectable doses and amygdalin (laetrile) which have been licensed by the State Board of Health for manufacture in this State but have not been approved as drugs by the Food and Drug Administration; or

3. Any drug which, pursuant to the Board's regulations, may be sold only by prescription because the Board has found those drugs to be dangerous to public health or safety.

~~Section 1.1.~~ Sec. 1.3. NRS 454.213 is hereby amended to read as follows:

454.213 1. ~~1.1.~~ 1.1. Except as otherwise provided in section 1 of this act, a drug or medicine referred to in NRS 454.181 to 454.371, inclusive, and section 1 of this act may be possessed and administered by:

(a) A practitioner.

(b) ~~1.2. Except as otherwise provided in this paragraph, a~~ physician assistant licensed pursuant to chapter 630 or 633 of NRS, at the direction of his or her supervising physician or a licensed dental hygienist acting in the office of and under the supervision of a dentist. ~~1.4. A licensed dental hygienist shall not administer botulinum toxin.~~

(c) Except as otherwise provided in paragraph (d), a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practice registered nurse, or pursuant to a chart order, for administration to a patient at another location.

(d) In accordance with applicable regulations of the Board, a registered nurse licensed to practice professional nursing or licensed practical nurse who is:

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

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

(e) A medication aide - certified at a designated facility under the supervision of an advanced practice registered nurse or registered nurse and in accordance with standard protocols developed by the State Board of Nursing. As used in this paragraph, "designated facility" has the meaning ascribed to it in NRS 632.0145.

(f) Except as otherwise provided in paragraph (g), an advanced emergency medical technician or a paramedic, as authorized by regulation of the State Board of Pharmacy and in accordance with any applicable regulations of:

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

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

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

(g) An advanced emergency medical technician or a paramedic who holds an endorsement issued pursuant to NRS 450B.1975, under the direct supervision of a local health officer or a designee of the local health officer pursuant to that section.

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

(i) 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.

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

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

(2) 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.

(k) Any person designated by the head of a correctional institution.

(l) An ultimate user or any person designated by the ultimate user pursuant to a written agreement.

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

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

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

(p) A physical therapist, but only if the drug or medicine is a topical drug which is:

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

(2) Prescribed by a licensed physician for:

(I) Iontophoresis; or

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

(q) 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.

(r) A veterinary technician or a veterinary assistant at the direction of his or her supervising veterinarian.

(s) In accordance with applicable regulations of the Board, a registered pharmacist who:

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

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

(3) Administers immunizations in compliance with the "Standards for Immunization Practices" recommended and approved by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(t) A registered pharmacist pursuant to written guidelines and protocols developed and approved pursuant to NRS 639.2809.

(u) 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, advanced emergency medical technician, paramedic, 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, advanced emergency medical technician, paramedic, 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.

(v) ~~▲ Except as otherwise provided in this paragraph, a~~ medical assistant, in accordance with applicable regulations of the:

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

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

~~↪ A medical assistant shall not administer botulinum toxin.~~

2. As used in this section, "accredited college of medicine" has the meaning ascribed to it in NRS 453.375.

Sec. 1.4. NRS 454.306 is hereby amended to read as follows:

454.306 A person who violates any provision of NRS 454.181 to 454.371, inclusive, and section 1 of this act by use of a minor as an agent or by unlawfully furnishing any dangerous drug to a minor is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of not more than 20 years, or by a fine of not more than \$20,000, or by both fine and imprisonment.

Sec. 1.5. NRS 454.356 is hereby amended to read as follows:

454.356 Except as otherwise specifically provided, every person who violates any provision of NRS 454.181 to 454.371, inclusive, and section 1 of this act is guilty of a misdemeanor.

Sec. 1.6. NRS 454.361 is hereby amended to read as follows:

454.361 A conviction of the violation of any of the provisions of NRS 454.181 to 454.371, inclusive, and section 1 of this act constitutes grounds for the suspension or revocation of any license issued to such person pursuant to the provisions of chapters 630, 631, 633, 635, 636, 638 or 639 of NRS.

Sec. 1.7. NRS 454.366 is hereby amended to read as follows:

454.366 The Board shall administer and enforce NRS 454.181 to 454.371, inclusive, and section 1 of this act.

Sec. 1.8. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not administer dermal or soft tissue fillers:

(a) Unless the person is:

(1) A physician or physician assistant licensed pursuant to chapter 630 of NRS who has successfully completed the training prescribed by the Board of Medical Examiners pursuant to section 1.9 of this act;

(2) A dentist who has successfully completed the training prescribed by the Board of Dental Examiners of Nevada pursuant to section 3.3 of this act;

(3) A registered nurse or advanced practice registered nurse who has successfully completed the training prescribed by the State Board of Nursing pursuant to section 6.4 of this act;

(4) A physician or physician assistant licensed pursuant to chapter 633 of NRS who has successfully completed the training prescribed by the State Board of Osteopathic Medicine pursuant to 6.9 of this act; or

(5) A podiatric physician who has successfully completed the training prescribed by the State Board of Podiatry pursuant to section 7.2 of this act.

(b) Outside his or her scope of practice.

(c) At a location other than a medical facility or the office of a physician or physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, advanced practice registered nurse or podiatric physician.

2. A person who is authorized by subsection 1 to administer dermal or soft tissue fillers shall not delegate such administration to a person who is prohibited by subsection 1 from administering dermal or soft tissue fillers.

3. A person who violates any provision of this section is guilty of a misdemeanor.

4. As used in this section, "dermal or soft tissue filler" means a material that is injected into the skin to fill in wrinkles or into the soft tissue to alter the contour of the soft tissue.

Sec. 1.9. Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board shall adopt regulations prescribing the training that a physician or physician assistant must receive before administering botulinum toxin or dermal or soft tissue fillers.

2. A physician or physician assistant who has received the training prescribed pursuant to subsection 1 shall present proof of such training upon the request of a patient or any state or local governmental agency or agent thereof.

3. As used in this section "dermal or soft tissue filler" has the meaning ascribed to it in section 1.8 of this act.

Sec. 2. NRS 630.138 is hereby amended to read as follows:

630.138 The Board ~~+~~

1 ~~1. May~~ **may** adopt regulations governing the supervision of a medical
2 assistant, including, without limitation, regulations which prescribe limitations on
3 the possession and administration of a dangerous drug by a medical assistant.

4 ~~2. Shall adopt regulations governing the possession and administration of~~
5 ~~botulinum toxin, commonly known as Botox, by a medical assistant or any other~~
6 ~~person, including, without limitation:~~

7 ~~(a) The qualifications and training required for administration; and~~

8 ~~(b) The manner and place of administration.]~~

9 **Sec. 3.** NRS 630.306 is hereby amended to read as follows:

10 630.306 1. The following acts, among others, constitute grounds for
11 initiating disciplinary action or denying licensure:

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

15 (b) Engaging in any conduct:

16 (1) Which is intended to deceive;

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

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

21 (c) Administering, dispensing or prescribing any controlled substance, or any
22 dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to
23 others except as authorized by law.

24 (d) Performing, assisting or advising the injection of any substance containing
25 liquid silicone into the human body, except for the use of silicone oil to repair a
26 retinal detachment.

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

30 (f) Performing, without first obtaining the informed consent of the patient or
31 the patient's family, any procedure or prescribing any therapy which by the current
32 standards of the practice of medicine is experimental.

33 (g) Continual failure to exercise the skill or diligence or use the methods
34 ordinarily exercised under the same circumstances by physicians in good standing
35 practicing in the same specialty or field.

36 (h) Habitual intoxication from alcohol or dependency on controlled substances.

37 (i) Making or filing a report which the licensee or applicant knows to be false
38 or failing to file a record or report as required by law or regulation.

39 (j) Failing to comply with the requirements of NRS 630.254.

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

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

50 (m) Failure to be found competent to practice medicine as a result of an
51 examination to determine medical competency pursuant to NRS 630.318.

52 (n) Operation of a medical facility at any time during which:

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

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

↳ This paragraph applies to an owner or other principal responsible for the operation of the facility.

(o) Failure to comply with the requirements of NRS 630.373.

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

(q) 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:

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

(2) 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;

(3) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS; or

(4) Is an investigational drug or biological product prescribed to a patient pursuant to NRS 630.3735 or 633.6945.

(r) Failure to supervise adequately a medical assistant pursuant to the regulations of the Board ~~including, without limitation, delegating the administration of botulinum toxin to a medical assistant or otherwise allowing a medical assistant to administer botulinum toxin.~~

(s) Failure to comply with the provisions of NRS 630.3745.

(t) Failure to obtain any training required by the Board pursuant to NRS 630.2535.

(u) Failure to comply with the provisions of section 1 or 1.8 of this act.

2. As used in this section, "investigational drug or biological product" has the meaning ascribed to it in NRS 454.351.

Sec. 3.3. Chapter 631 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board shall adopt regulations prescribing the training that a dentist must receive before administering botulinum toxin or dermal or soft tissue fillers.

2. A dentist who has received the training prescribed pursuant to subsection 1 shall present proof of such training upon the request of a patient or any state or local governmental agency or agent thereof.

3. As used in this section "dermal or soft tissue filler" has the meaning ascribed to it in section 1.8 of this act.

Sec. 4. NRS 631.313 is hereby amended to read as follows:

631.313 1. ~~1. A~~ **Except as otherwise provided in sections 1 and 1.8 of this act, a** licensed dentist may assign to a person in his or her employ who is a dental hygienist, dental assistant or other person directly or indirectly involved in the provision of dental care only such intraoral tasks as may be permitted by a regulation of the Board or by the provisions of this chapter.

2. The performance of these tasks must be:

(a) If performed by a dental assistant or a person, other than a dental hygienist, who is directly or indirectly involved in the provision of dental care, under the supervision of the licensed dentist who made the assignment.

(b) If performed by a dental hygienist, authorized by the licensed dentist of the patient for whom the tasks will be performed, except as otherwise provided in NRS 631.287.

3. No such assignment is permitted that requires:

(a) The diagnosis, treatment planning, prescribing of drugs or medicaments, or authorizing the use of restorative, prosthodontic or orthodontic appliances.

(b) Surgery on hard or soft tissues within the oral cavity or any other intraoral procedure that may contribute to or result in an irremediable alteration of the oral anatomy.

(c) The administration of general anesthesia, minimal sedation, moderate sedation or deep sedation except as otherwise authorized by regulations adopted by the Board.

~~(d) The administration of botulinum toxin.~~

~~(e)~~ The performance of a task outside the authorized scope of practice of the employee who is being assigned the task.

4. A dental hygienist may, pursuant to regulations adopted by the Board, administer local anesthesia or nitrous oxide in a health care facility, as defined in NRS 162A.740, if:

(a) The dental hygienist is so authorized by the licensed dentist of the patient to whom the local anesthesia or nitrous oxide is administered; and

(b) The health care facility has licensed medical personnel and necessary emergency supplies and equipment available when the local anesthesia or nitrous oxide is administered.

Sec. 5. ~~NRS 631.346 is hereby amended to read as follows:~~

~~631.346 The following acts, among others, constitute unprofessional conduct:~~

~~1. Employing, directly or indirectly, any student or any suspended or unlicensed dentist or dental hygienist to perform operations of any kind to treat or correct the teeth or jaws, except as provided in this chapter;~~

~~2. Except as otherwise provided in NRS 631.287, giving a public demonstration of methods of practice any place other than the office where the licensee is known to be regularly engaged in this practice;~~

~~3. Employing, procuring, inducing, aiding or abetting a person not licensed or registered as a dentist to engage in the practice of dentistry, but a patient shall not be deemed to be an accomplice, employer, procurer, inducer, aider or abettor;~~

~~4. Assigning a person other than a licensed dentist to administer botulinum toxin in violation of paragraph (d) of subsection 3 of NRS 631.313;~~

~~5. For a dental hygienist, practicing in any place not authorized pursuant to this chapter; or~~

~~[5.] 6. Practicing while a license is suspended or without a renewal certificate.] (Deleted by amendment.)~~

Sec. 6. NRS 631.3475 is hereby amended to read as follows:

631.3475 The following acts, among others, constitute unprofessional conduct:

1. Malpractice;

2. Professional incompetence;

3. Suspension or revocation of a license to practice dentistry, the imposition of a fine or other disciplinary action by any agency of another state authorized to regulate the practice of dentistry in that state;

4. More than one act by the dentist or dental hygienist constituting substandard care in the practice of dentistry or dental hygiene;

5. Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, if it is not required to treat the dentist's patient;

6. Knowingly 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;

~~7. Administering botulinum toxin outside the scope of the practice of dentistry.~~ Failure to comply with the provisions of section 1 or 1.8 of this act;

8. Chronic or persistent inebriety or addiction to a controlled substance, to such an extent as to render the person unsafe or unreliable as a practitioner, or such gross immorality as tends to bring reproach upon the dental profession;

~~9. Conviction of a felony or misdemeanor involving moral turpitude or which relates to the practice of dentistry in this State, or conviction of any criminal violation of this chapter;~~

~~10. Conviction of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;~~

~~11. Failure to comply with the provisions of NRS 453.163 or 453.164;~~

~~12. Failure to obtain any training required by the Board pursuant to NRS 631.344; or~~

~~13. 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.

~~14. For a dental hygienist, administering botulinum toxin.~~

Sec. 6.2. Chapter 632 of NRS is hereby amended by adding thereto the provisions set forth as sections 6.3 and 6.4 of this act.

Sec. 6.3. "Dermal or soft tissue filler" has the meaning ascribed to it in section 1.8 of this act.

Sec. 6.4. 1. The Board shall adopt regulations prescribing the training that a registered nurse or advanced practice registered nurse must receive before administering botulinum toxin or dermal or soft tissue fillers.

2. A registered nurse or advanced practice registered nurse who has received the training prescribed pursuant to subsection 1 shall present proof of such training upon the request of a patient or any state or local governmental agency or agent thereof.

Sec. 6.5. NRS 632.010 is hereby amended to read as follows:

632.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 632.011 to 632.0195, inclusive, and section 6.3 of this act have the meanings ascribed to them in those sections.

Sec. 6.6. NRS 632.294 is hereby amended to read as follows:

632.294 1. A medication aide - certified may only administer authorized medications and perform related tasks at a designated facility under the supervision of an advanced practice registered nurse or a registered nurse and in accordance with standard protocols developed by the Board.

2. Except as otherwise provided by subsection 4, a medication aide - certified may only administer authorized medications by the following methods:

(a) Orally;

(b) Topically;

(c) By the use of drops in the eye, ear or nose;

- (d) Vaginally;
- (e) Rectally;
- (f) Transdermally; and
- (g) By the use of an oral inhaler.

3. Except as otherwise provided by subsection 4, a medication aide - certified shall not:

- (a) Receive, have access to or administer any controlled substance;
- (b) Administer parenteral or enteral medications;
- (c) Administer any substances by nasogastric or gastrostomy tubes;
- (d) Calculate drug dosages;
- (e) Destroy medication;
- (f) Receive orders, either in writing or verbally, for new or changed medication;
- (g) Transcribe orders from medical records;
- (h) Order or administer initial medications;
- (i) Evaluate reports of medication errors;
- (j) Perform treatments;
- (k) Conduct patient assessments or evaluations;
- (l) Engage in teaching activities for patients; ~~for~~
- (m) Administer botulinum toxin or a dermal or soft tissue filler; or
- (n) Engage in any activity prohibited pursuant to subsection 4.

4. ~~The~~ Except as otherwise provided in this subsection, the Board may adopt regulations authorizing or prohibiting any additional activities of a medication aide - certified. The Board shall not adopt regulations authorizing a medication aide - certified to administer botulinum toxin or a dermal or soft tissue filler.

5. As used in this section, "supervision" means active oversight of the patient care services provided by a medication aide - certified while on the premises of a designated facility.

Sec. 6.8. NRS 632.347 is hereby amended to read as follows:

632.347 1. The Board may deny, revoke or suspend any license or certificate applied for or issued pursuant to this chapter, or take other disciplinary action against a licensee or holder of a certificate, upon determining that the licensee or certificate holder:

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license or certificate pursuant to this chapter.

(b) Is guilty of any offense:

(1) Involving moral turpitude; or

(2) Related to the qualifications, functions or duties of a licensee or holder of a certificate,

in which case the record of conviction is conclusive evidence thereof.

(c) Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

(d) Is unfit or incompetent by reason of gross negligence or recklessness in carrying out usual nursing functions.

(e) Uses any controlled substance, dangerous drug as defined in chapter 454 of NRS, or intoxicating liquor to an extent or in a manner which is dangerous or injurious to any other person or which impairs his or her ability to conduct the practice authorized by the license or certificate.

(f) Is a person with mental incompetence.

(g) Is guilty of unprofessional conduct, which includes, but is not limited to, the following:

1 (1) Conviction of practicing medicine without a license in violation of
2 chapter 630 of NRS, in which case the record of conviction is conclusive evidence
3 thereof.

4 (2) Impersonating any applicant or acting as proxy for an applicant in any
5 examination required pursuant to this chapter for the issuance of a license or
6 certificate.

7 (3) Impersonating another licensed practitioner or holder of a certificate.

8 (4) Permitting or allowing another person to use his or her license or
9 certificate to practice as a licensed practical nurse, registered nurse, nursing
10 assistant or medication aide - certified.

11 (5) Repeated malpractice, which may be evidenced by claims of
12 malpractice settled against the licensee or certificate holder.

13 (6) Physical, verbal or psychological abuse of a patient.

14 (7) Conviction for the use or unlawful possession of a controlled substance
15 or dangerous drug as defined in chapter 454 of NRS.

16 (h) Has willfully or repeatedly violated the provisions of this chapter. The
17 voluntary surrender of a license or certificate issued pursuant to this chapter is
18 prima facie evidence that the licensee or certificate holder has committed or expects
19 to commit a violation of this chapter.

20 (i) Is guilty of aiding or abetting any person in a violation of this chapter.

21 (j) Has falsified an entry on a patient's medical chart concerning a controlled
22 substance.

23 (k) Has falsified information which was given to a physician, pharmacist,
24 podiatric physician or dentist to obtain a controlled substance.

25 (l) Has knowingly procured or administered a controlled substance or a
26 dangerous drug as defined in chapter 454 of NRS that is not approved by the United
27 States Food and Drug Administration, unless the unapproved controlled substance
28 or dangerous drug:

29 (1) Was procured through a retail pharmacy licensed pursuant to chapter
30 639 of NRS;

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

34 (3) Is marijuana being used for medical purposes in accordance with
35 chapter 453A of NRS; or

36 (4) Is an investigational drug or biological product prescribed to a patient
37 pursuant to NRS 630.3735 or 633.6945.

38 (m) Has been disciplined in another state in connection with a license to
39 practice nursing or a certificate to practice as a nursing assistant or medication aide
40 - certified, or has committed an act in another state which would constitute a
41 violation of this chapter.

42 (n) Has engaged in conduct likely to deceive, defraud or endanger a patient or
43 the general public.

44 (o) Has willfully failed to comply with a regulation, subpoena or order of the
45 Board.

46 (p) Has operated a medical facility at any time during which:

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

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

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

52 (q) Has violated the provisions of section 1 or 1.8 of this act.

1 (r) Is an advanced practice registered nurse who has failed to obtain any
2 training required by the Board pursuant to NRS 632.2375.

3 ~~(r)~~ (s) Is an advanced practice registered nurse who has failed to comply with
4 the provisions of NRS 453.163 or 453.164.

5 2. For the purposes of this section, a plea or verdict of guilty or guilty but
6 mentally ill or a plea of nolo contendere constitutes a conviction of an offense. The
7 Board may take disciplinary action pending the appeal of a conviction.

8 3. A licensee or certificate holder is not subject to disciplinary action solely
9 for administering auto-injectable epinephrine pursuant to a valid order issued
10 pursuant to NRS 630.374 or 633.707.

11 4. As used in this section, "investigational drug or biological product" has the
12 meaning ascribed to it in NRS 454.351.

13 Sec. 6.9. Chapter 633 of NRS is hereby amended by adding thereto a
14 new section to read as follows:

15 1. The Board shall adopt regulations prescribing the training that an
16 osteopathic physician or physician assistant must receive before administering
17 botulinum toxin or dermal or soft tissue fillers.

18 2. An osteopathic physician or physician assistant who has received the
19 training prescribed pursuant to subsection 1 shall present proof of such training
20 upon the request of a patient or any state or local governmental agency or agent
21 thereof.

22 3. As used in this section "dermal or soft tissue filler" has the meaning
23 ascribed to it in section 1.8 of this act.

24 Sec. 7. NRS 633.511 is hereby amended to read as follows:

25 633.511 1. The grounds for initiating disciplinary action pursuant to this
26 chapter are:

27 (a) Unprofessional conduct.

28 (b) Conviction of:

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

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

34 (3) A violation of any of the provisions of NRS 616D.200, 616D.220,
35 616D.240 or 616D.300 to 616D.440, inclusive;

36 (4) Murder, voluntary manslaughter or mayhem;

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

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

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

41 (8) Abuse or neglect of a child or contributory delinquency; or

42 (9) Any offense involving moral turpitude.

43 (c) The suspension of a license to practice osteopathic medicine or to practice
44 as a physician assistant by any other jurisdiction.

45 (d) Malpractice or gross malpractice, which may be evidenced by a claim of
46 malpractice settled against a licensee.

47 (e) Professional incompetence.

48 (f) Failure to comply with the requirements of NRS 633.527.

49 (g) Failure to comply with the requirements of subsection 3 of NRS 633.471.

50 (h) Failure to comply with the provisions of NRS 633.694.

51 (i) Operation of a medical facility, as defined in NRS 449.0151, at any time
52 during which:

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

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

↳ This paragraph applies to an owner or other principal responsible for the operation of the facility.

(j) Failure to comply with the provisions of subsection 2 of NRS 633.322.

(k) Signing a blank prescription form.

(l) 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:

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

(2) 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;

(3) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS; or

(4) Is an investigational drug or biological product prescribed to a patient pursuant to NRS 630.3735 or 633.6945.

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

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

(o) 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.

(p) 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.

(q) 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.

(r) Engaging in any act that is unsafe in accordance with regulations adopted by the Board.

(s) Failure to comply with the provisions of NRS 629.515.

(t) Failure to supervise adequately a medical assistant pursuant to the regulations of the Board ~~or, including, without limitation, delegating the administration of botulinum toxin to a medical assistant or otherwise allowing a medical assistant to administer botulinum toxin.~~

(u) Failure to obtain any training required by the Board pursuant to NRS 633.473.

(v) Failure to comply with the provisions of NRS 633.6955.

(w) Failure to comply with the provisions of NRS 453.163 or 453.164.

(x) Failure to comply with the provisions of section 1 or 1.8 of this act.

2. As used in this section, "investigational drug or biological product" has the meaning ascribed to it in NRS 454.351.

Sec. 7.2. Chapter 635 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board shall adopt regulations prescribing the training that a podiatric physician must receive before administering botulinum toxin or dermal or soft tissue fillers.

2. A podiatric physician who has received the training prescribed pursuant to subsection 1 shall present proof of such training upon the request of a patient or any state or local governmental agency or agent thereof.

3. As used in this section "dermal or soft tissue filler" has the meaning ascribed to it in section 1.8 of this act.

Sec. 7.5. NRS 635.130 is hereby amended to read as follows:

635.130 1. The Board, after notice and a hearing as required by law, and upon any cause enumerated in subsection 2, may take one or more of the following disciplinary actions:

- (a) Deny an application for a license or refuse to renew a license.
- (b) Suspend or revoke a license.
- (c) Place a licensee on probation.
- (d) Impose a fine not to exceed \$5,000.

2. The Board may take disciplinary action against a licensee for any of the following causes:

- (a) The making of a false statement in any affidavit required of the applicant for application, examination or licensure pursuant to the provisions of this chapter.
- (b) Lending the use of the holder's name to an unlicensed person.
- (c) If the holder is a podiatric physician, permitting an unlicensed person in his or her employ to practice as a podiatry hygienist.
- (d) Habitual indulgence in the use of alcohol or any controlled substance which impairs the intellect and judgment to such an extent as in the opinion of the Board incapacitates the holder in the performance of his or her professional duties.
- (e) Conviction of a crime involving moral turpitude.
- (f) Conviction of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.
- (g) Conduct which in the opinion of the Board disqualifies the licensee to practice with safety to the public.
- (h) The commission of fraud by or on behalf of the licensee regarding his or her license or practice.
- (i) Gross incompetency.
- (j) Affliction of the licensee with any mental or physical disorder which seriously impairs his or her competence as a podiatric physician or podiatry hygienist.
- (k) False representation by or on behalf of the licensee regarding his or her practice.
- (l) Unethical or unprofessional conduct.
- (m) Failure to comply with the requirements of subsection 1 of NRS 635.118.
- (n) Willful or repeated violations of this chapter or regulations adopted by the Board.
- (o) Willful violation of the regulations adopted by the State Board of Pharmacy.
- (p) Knowingly 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:

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

(2) 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

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

(q) Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

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

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

↳ This paragraph applies to an owner or other principal responsible for the operation of the facility.

(r) Failure to obtain any training required by the Board pursuant to NRS 635.116.

(s) Failure to comply with the provisions of NRS 453.163 and 453.164.

(t) Failure to comply with the provisions of section 1 or 1.8 of this act.

Sec. 7.8. NRS 644.430 is hereby amended to read as follows:

644.430 1. The following are grounds for disciplinary action by the Board:

(a) Failure of an owner of an establishment for hair braiding, a cosmetological establishment, a licensed or registered, as applicable, aesthetician, cosmetologist, hair designer, shampoo technologist, hair braider, electrologist, instructor, nail technologist, demonstrator of cosmetics, makeup artist or school of cosmetology to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(b) Failure of a cosmetologist's apprentice, electrologist's apprentice, aesthetician's apprentice, hair designer's apprentice or nail technologist's apprentice to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(c) Obtaining practice in cosmetology or any branch thereof, for money or any thing of value, by fraudulent misrepresentation.

(d) Gross malpractice.

(e) Continued practice by a person knowingly having an infectious or contagious disease.

(f) Drunkenness or the use or possession, or both, of a controlled substance or dangerous drug without a prescription, while engaged in the practice of cosmetology.

(g) Advertising in violation of any of the provisions of NRS 644.422 or 644.478.

(h) Permitting a license to be used where the holder thereof is not personally, actively and continuously engaged in business.

(i) Failure to display the license or a duplicate of the license as provided in NRS 644.290, 644.360, 644.3774 and 644.410.

(j) Failure to display the certificate of registration or a duplicate of the certificate of registration as provided in NRS 644.2175.

(k) Entering, by a school of cosmetology, into an unconscionable contract with a student of cosmetology.

(l) Continued practice of cosmetology or operation of a cosmetological establishment or school of cosmetology after the license therefor has expired.

(m) Failure to comply with the provisions of section 1 or 1.8 of this act.

(n) Any other unfair or unjust practice, method or dealing which, in the judgment of the Board, may justify such action.

2. If the Board determines that a violation of this section has occurred, it may:

(a) Refuse to issue or renew a license or certificate of registration;

- 1 (b) Revoke or suspend a license or certificate of registration;
- 2 (c) Place the licensee or holder of a certificate of registration on probation for a
- 3 specified period;
- 4 (d) Impose a fine not to exceed \$2,000; or
- 5 (e) Take any combination of the actions authorized by paragraphs (a) to (d),
- 6 inclusive.
- 7 3. An order that imposes discipline and the findings of fact and conclusions of
- 8 law supporting that order are public records.
- 9 **Sec. 8.** This act becomes effective on July 1, 2017.