

ASSEMBLY BILL NO. 334—ASSEMBLYWOMAN JAUREGUI

MARCH 18, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to the Board of Medical Examiners. (BDR 54-943)

FISCAL NOTE: Effect on Local Government: No.
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; authorizing a regulatory body to recover the costs of fees for a hearing officer at any depositions or hearings; authorizing the Board of Medical Examiners under certain circumstances to meet at an alternative location; revising the grounds for disciplinary actions against certain practitioners; revising the deadline for issuing final orders in disciplinary actions; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law sets forth certain provisions that are applicable to regulatory bodies that regulate certain occupations and professions. (Chapter 622 of NRS) **Section 1** of this bill allows such a regulatory body to recover the fees for hearing officers as costs incurred by the regulatory body as part of investigative, administrative and disciplinary proceedings against a person. **Section 2** of this bill authorizes the Board of Medical Examiners, under certain circumstances, to meet at a location at which video conference facilities are not available. **Section 3** of this bill provides that a violation of the provisions of existing law which regulate pharmacists and pharmacy by certain practitioners constitutes grounds for initiating disciplinary action or denying a license by the Board. **Section 3** also provides that a licensee or applicant does not have to report to the Board disciplinary actions which originated with the Board. **Section 4** of this bill revises the deadline for issuing final orders that impose discipline.



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

Section 1. NRS 622.400 is hereby amended to read as follows:

622.400 1. A regulatory body may recover from a person reasonable attorney's fees and costs that are incurred by the regulatory body as part of its investigative, administrative and disciplinary proceedings against the person if the regulatory body:

(a) Enters a final order in which it finds that the person has violated any provision of this title which the regulatory body has the authority to enforce, any regulation adopted pursuant thereto or any order of the regulatory body; or

(b) Enters into a consent or settlement agreement in which the regulatory body finds or the person admits or does not contest that the person has violated any provision of this title which the regulatory body has the authority to enforce, any regulation adopted pursuant thereto or any order of the regulatory body.

2. As used in this section, "costs" means:

(a) Costs of an investigation.

(b) Costs for photocopies, facsimiles, long distance telephone calls and postage and delivery.

(c) Fees for *hearing officers and* court reporters at any depositions or hearings.

(d) Fees for expert witnesses and other witnesses at any depositions or hearings.

(e) Fees for necessary interpreters at any depositions or hearings.

(f) Fees for service and delivery of process and subpoenas.

(g) Expenses for research, including, without limitation, reasonable and necessary expenses for computerized services for legal research.

Sec. 2. NRS 630.100 is hereby amended to read as follows:

630.100 1. The Board shall meet at least twice annually and may meet at other times on the call of the President or a majority of its members.

2. ~~[Meetings]~~ *Except as otherwise provided in this subsection, meetings* of the Board must be held at a location at which members of the general public may testify via telephone or video conference between Las Vegas and Carson City or Reno. *When appropriate video conference facilities are not available, the Board may meet at another location if the Board provides a telephonic dial-in number for use by the general public.*

3. A majority of the Board or of any committee or panel appointed by the Board constitutes a quorum. If there is a quorum, a vote of the majority of the members present is all that is necessary to



transact any business before the Board or the committee or panel appointed by the Board.

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

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

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

(b) Engaging in any conduct:

(1) Which is intended to deceive;

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

(3) Which is in violation of a *provision of chapter 639 of NRS, or a regulation adopted by the State Board of Pharmacy pursuant thereto, that is applicable to a licensee who is a practitioner, as defined in NRS 639.0125.*

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

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

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

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

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

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

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

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

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

The provisions of this paragraph do not apply to any disciplinary



action taken by the Board or taken because of any disciplinary action taken by the Board.

(l) 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.

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

(n) Operation of a medical facility 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.

(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.

(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 NRS 454.217 or 629.086.

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



Sec. 4. NRS 630.352 is hereby amended to read as follows:

630.352 1. Any member of the Board, other than a member of an investigative committee of the Board who participated in any determination regarding a formal complaint in the matter or any member serving on a panel of the Board at the hearing of the matter, may participate in an adjudication to obtain the final order of the Board. At the adjudication, the Board shall consider any findings of fact and conclusions of law submitted after the hearing and shall allow:

(a) Counsel for the Board to present a disciplinary recommendation and argument in support of the disciplinary recommendation subject to the provisions of NRS 622A.200 and 622A.210;

(b) The respondent or counsel of the respondent to present a disciplinary recommendation and argument in support of the disciplinary recommendation; and

(c) The complainant in the matter to make a statement to the Board regarding the disciplinary recommendations by the parties and to address the effect of the respondent's conduct upon the complainant or the patient involved, if other than the complainant.

↪ The Board may limit the time within which the parties and the complainant may make their arguments and statements.

2. At the conclusion of the presentations of the parties and the complainant, the Board shall deliberate and may by a majority vote impose discipline based upon the findings of fact and conclusions of law and the presentations of the parties and the complainant.

3. If, in the findings of fact and conclusions of law, the Board, hearing officer or panel of the Board determines that no violation has occurred, the Board shall dismiss the charges, in writing, and notify the respondent that the charges have been dismissed.

4. Except as otherwise provided in subsection 5, if the Board finds that a violation has occurred, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period on any of the conditions specified in the order;

(b) Administer a written public reprimand to the person;

(c) Limit the person's practice or exclude one or more specified branches of medicine from his or her practice;

(d) Suspend the person's license for a specified period or until further order of the Board;

(e) Revoke the person's license;

(f) Require the person to participate in a program to correct alcohol or drug dependence or any other impairment;

(g) Require supervision of the person's practice;

(h) Impose a fine not to exceed \$5,000 for each violation;



(i) Require the person to perform community service without compensation;

(j) Require the person to take a physical or mental examination or an examination testing his or her competence; and

(k) Require the person to fulfill certain training or educational requirements.

5. If the Board finds that the respondent has violated the provisions of NRS 439B.425, the Board shall suspend the respondent's license for a specified period or until further order of the Board.

6. The Board shall not administer a private reprimand if the Board finds that a violation has occurred.

7. Within 30 days after the ~~hearing before~~ *conclusion of the adjudication by* the Board, the Board shall issue a final order, certified by the Secretary-Treasurer of the Board, that imposes discipline and incorporates the findings of fact and conclusions of law obtained from the hearing. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 5. This act becomes effective on July 1, 2019.

