

SENATE BILL NO. 98—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE SUNSET SUBCOMMITTEE
OF THE LEGISLATIVE COMMISSION)

PREFILED JANUARY 28, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing the practice of homeopathic medicine. (BDR 54-519)

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 homeopathic medicine; transferring the responsibility for regulating the practice of homeopathic medicine from the Board of Homeopathic Medical Examiners to the State Board of Health; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, the Board of Homeopathic Medical Examiners is charged
2 with regulating the practice of homeopathic medicine in this State. (NRS
3 630A.155) This bill transfers the responsibility for regulating the practice of
4 homeopathic medicine to the State Board of Health. **Section 3** of this bill authorizes
5 the State Board of Health to establish a Homeopathic Advisory Group to provide
6 the State Board of Health with expertise and assistance in regulating the practice of
7 homeopathic medicine. **Section 4** of this bill authorizes the State Board of Health to
8 contract for professional, technical, clerical and operational personnel as necessary
9 to fulfill its duties with respect to the regulation of homeopathic medicine. **Sections**
10 **1 and 5-18** of this bill make conforming changes.

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

1 **Section 1.** NRS 629.097 is hereby amended to read as follows:
2 629.097 1. If the Governor must appoint to a board a person
3 who is a member of a profession being regulated by that board, the



Governor shall solicit nominees from one or more applicable professional associations in this State.

2. To the extent practicable, such an applicable professional association shall provide nominees who represent the geographic diversity of this State.

3. The Governor may appoint any qualified person to a board, without regard to whether the person is nominated pursuant to this section.

4. As used in this section, "board" refers to a board created pursuant to chapter 630, ~~630A,~~ 631, 632, 633, 634, 634A, 635, 636, 637, 637B, 639, 640, 640A, 640B, 640C, 641, 641A, 641B or 641C of NRS.

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

Sec. 3. 1. *The Board may establish a Homeopathic Advisory Group consisting of persons familiar with the practice of homeopathy to provide the Board with expertise and assistance in carrying out its duties pursuant to this chapter. If a Homeopathic Advisory Group is established, the Board must:*

(a) Determine the number of members;

(b) Appoint the members;

(c) Establish the terms of the members; and

(d) Determine the duties of the Homeopathic Advisory Group.

2. *Members of a Homeopathic Advisory Group established pursuant to subsection 1 serve without compensation.*

Sec. 4. *The Board may, within the limits of legislative appropriations and other available funds, contract for the services of such professional, technical, clerical and operational personnel and consultants as the Board deems necessary for the execution of its duties pursuant to this chapter, including, without limitation, conducting investigations, disciplinary proceedings and examinations of applicants.*

Sec. 5. NRS 630A.020 is hereby amended to read as follows:

630A.020 "Board" means the ~~Board of Homeopathic Medical Examiners.~~ ***State Board of Health.***

Sec. 6. NRS 630A.160 is hereby amended to read as follows:

630A.160 ~~[1.— Out of the money coming into the possession of the Board, each member of the Board is entitled to receive:~~

~~—(a) A salary of not more than \$150 per day, as fixed by the Board, while engaged in the business of the Board; and~~

~~—(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.~~



1 ~~— 2. While engaged in the business of the Board, each employee~~
2 ~~of the Board is entitled to receive a per diem allowance and travel~~
3 ~~expenses at a rate fixed by the Board. The rate must not exceed the~~
4 ~~rate provided for state officers and employees generally.~~

5 ~~— 3. Expenses of the Board and the expenses and salaries of the~~
6 ~~members and employees of the Board must be paid from the fees~~
7 ~~received by the Board pursuant to the provisions of this chapter.~~
8 ~~Except as otherwise provided in subsection 6, no part of the salaries~~
9 ~~or expenses of the members of the Board may be paid out of the~~
10 ~~State General Fund.~~

11 ~~— 4. All money received by the Board must be deposited in~~
12 ~~financial institutions in this State that are federally insured or~~
13 ~~insured by a private insurer approved pursuant to NRS 678.755.~~

14 ~~— 5.] In a manner consistent with the provisions of chapter 622A~~
15 ~~of NRS, the Board may delegate to a hearing officer or panel its~~
16 ~~authority to take any disciplinary action pursuant to this chapter,~~
17 ~~impose and collect administrative fines, court costs and attorney's~~
18 ~~fees therefor . [and deposit the money therefrom in financial~~
19 ~~institutions in this State that are federally insured or insured by a~~
20 ~~private insurer approved pursuant to NRS 678.755.~~

21 ~~— 6. If a hearing officer or panel is not authorized to take~~
22 ~~disciplinary action pursuant to subsection 5, the Board shall deposit~~
23 ~~the money collected from the imposition of administrative fines,~~
24 ~~court costs and attorney's fees with the State Treasurer for credit to~~
25 ~~the State General Fund. The Board may present a claim to the State~~
26 ~~Board of Examiners for recommendation to the Interim Finance~~
27 ~~Committee if money is needed to pay attorney's fees or the costs of~~
28 ~~an investigation, or both.]~~

29 **Sec. 7.** NRS 630A.210 is hereby amended to read as follows:

30 630A.210 1. In a manner consistent with the provisions of
31 chapter 622A of NRS, the Board may hold hearings and conduct
32 investigations relating to its duties under this chapter and take
33 evidence on any matter under inquiry before the Board. The
34 ~~[Secretary Treasurer of the Board or, in the Secretary Treasurer's~~
35 ~~absence, any member of the]~~ Board may administer oaths to any
36 witness appearing before the Board. The ~~[Secretary Treasurer or~~
37 ~~President of the]~~ Board may issue subpoenas to compel the
38 attendance of witnesses and the production of books, medical
39 records, X-ray photographs and other papers. ~~[The Secretary~~
40 ~~Treasurer, President or other officer of the Board shall sign the~~
41 ~~subpoena on behalf of the Board.]~~

42 2. If any person fails to comply with a subpoena issued by the
43 Board, the ~~[Secretary Treasurer or President of the]~~ Board may
44 petition the district court for an order of the court compelling
45 compliance with the subpoena.



3. Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days from the date of the order, and then and there show cause why he or she has not complied with the subpoena. A certified copy of the order must be served upon that person.

4. If it appears to the court that the subpoena was regularly issued by the Board, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order the person must be dealt with as for contempt of court.

Sec. 8. NRS 630A.240 is hereby amended to read as follows:

630A.240 1. An applicant for a license to practice homeopathic medicine as a homeopathic physician who is a graduate of a medical school located in the United States, Canada or the United Kingdom shall submit to the Board, through its ~~Secretary-Treasurer,~~ *Executive Officer*, proof that the applicant has:

(a) Received the degree of doctor of medicine from a medical school which at the time of his or her graduation was accredited by the Liaison Committee on Medical Education or the Committee ~~for the~~ *on* Accreditation of Canadian Medical Schools, the degree of Bachelor of Medicine and Bachelor of Surgery or its equivalent from a medical school which at the time of his or her graduation was determined by the General Medical Council of the United Kingdom to be entitled to award primary medical qualifications, or the degree of doctor of osteopathic medicine from an osteopathic school which at the time of his or her graduation was accredited by the Bureau of Professional Education of the American Osteopathic Association;

(b) Completed a program of not less than 3 years of postgraduate training in allopathic or osteopathic medicine approved by the Board; and

(c) Completed not less than 600 hours of postgraduate training in homeopathy, 300 hours of which are completed in this State under the supervision of a homeopathic physician or through such other program as is deemed equivalent by the Board.

2. In addition to the proofs required by subsection 1, the Board may take such further evidence and require such other documents or proof of qualification as in its discretion may be deemed proper.

3. If it appears that the applicant is not of good moral character or reputation or that any credential submitted is false, the applicant may be rejected.

Sec. 9. NRS 630A.270 is hereby amended to read as follows:

630A.270 1. An applicant for a license to practice homeopathic medicine who is a graduate of a foreign medical



1 school shall submit to the Board through its ~~[Secretary-Treasurer]~~
2 **Executive Officer** proof that the applicant:

3 (a) Is a citizen of the United States, or that he or she is lawfully
4 entitled to remain and work in the United States;

5 (b) Has received the degree of doctor of medicine or its
6 equivalent, as determined by the Board, from a foreign medical
7 school recognized by the Educational Commission for Foreign
8 Medical Graduates;

9 (c) Has completed 3 years of postgraduate training satisfactory
10 to the Board;

11 (d) Has completed an additional 6 months of postgraduate
12 training in homeopathic medicine;

13 (e) Has received the standard certificate of the Educational
14 Commission for Foreign Medical Graduates; and

15 (f) Has passed all parts of the Federation Licensing
16 Examination, or has received a written statement from the
17 Educational Commission for Foreign Medical Graduates that the
18 applicant has passed the examination given by the Commission.

19 2. In addition to the proofs required by subsection 1, the Board
20 may take such further evidence and require such further proof of the
21 professional and moral qualifications of the applicant as in its
22 discretion may be deemed proper.

23 3. If the applicant is a diplomate of an approved specialty
24 board recognized by this Board, the requirements of paragraphs (c)
25 and (d) of subsection 1 may be waived by the Board.

26 4. Before issuance of a license to practice homeopathic
27 medicine, the applicant who presents the proof required by
28 subsection 1 shall appear personally before the Board and
29 satisfactorily pass a written or oral examination, or both, as to his or
30 her qualifications to practice homeopathic medicine.

31 **Sec. 10.** NRS 630A.400 is hereby amended to read as follows:

32 630A.400 1. The Board or a committee of its members
33 designated by the Board shall review every complaint filed with the
34 Board and conduct an investigation to determine whether there is a
35 reasonable basis for compelling a homeopathic physician to take a
36 mental or physical examination or an examination of his or her
37 competence to practice homeopathic medicine.

38 2. If a committee is designated, it must be composed of at least
39 three members of the Board . ~~[, at least one of whom is a licensed~~
40 ~~homeopathic physician.]~~

41 3. If, from the complaint or from other official records, it
42 appears that the complaint is not frivolous and the complaint
43 charges gross or repeated malpractice, the Board may:

44 (a) Retain the Attorney General to investigate the complaint; and



(b) If the Board retains the Attorney General, transmit the original complaint, along with further facts or information derived from its own review, to the Attorney General.

4. Following an investigation, the committee shall present its evaluation and recommendations to the Board. The Board shall review the committee's findings to determine whether to take any further action, but a member of the Board who participated in the investigation may not participate in this review or in any subsequent hearing or action taken by the Board.

Sec. 11. NRS 630A.460 is hereby amended to read as follows:
630A.460 1. In addition to any other remedy provided by law, the Board, through its ~~{President}~~ *Chair* or ~~{Secretary-Treasurer}~~ *Executive Officer* or the Attorney General, may apply to any court of competent jurisdiction to:

(a) Enjoin any prohibited act or other conduct of a homeopathic physician which is harmful to the public;

(b) Enjoin any person who is not licensed under this chapter from practicing homeopathic medicine; or

(c) Limit a homeopathic physician's practice or suspend his or her license to practice homeopathic medicine.

2. The court in a proper case may issue a temporary restraining order or a preliminary injunction for the purposes of subsection 1:

(a) Without proof of actual damage sustained by any person;

(b) Without relieving any person from criminal prosecution for engaging in the practice of homeopathic medicine without a license; and

(c) Pending proceedings for disciplinary action by the Board.

Sec. 12. NRS 630A.490 is hereby amended to read as follows:
630A.490 Except as otherwise provided in chapter 622A of NRS:

1. Service of process made under this chapter must be either personal or by registered or certified mail with return receipt requested, addressed to the homeopathic physician, advanced practitioner of homeopathy or homeopathic assistant at his or her last known address. If personal service cannot be made and if notice by mail is returned undelivered, the ~~{Secretary-Treasurer}~~ *Executive Officer* of the Board shall cause notice to be published once a week for 4 consecutive weeks in a newspaper published in the county of the last known address of the homeopathic physician, advanced practitioner of homeopathy or homeopathic assistant or, if no newspaper is published in that county, then in a newspaper widely distributed in that county.

2. Proof of service of process or publication of notice made under this chapter must be filed with the Board and recorded in the minutes of the Board.



Sec. 13. NRS 630A.520 is hereby amended to read as follows:
630A.520 1. Any person aggrieved by a final order of the Board is entitled to judicial review of the Board's order as provided by law.

2. Every order of the Board which limits the practice of homeopathic medicine or the practice of an advanced practitioner of homeopathy or of a homeopathic assistant or suspends or revokes a license or certificate is effective from the date the ~~Secretary-Treasurer of the~~ Board certifies the order until the date the order is modified or reversed by a final judgment of the court. The court shall not stay the order of the Board pending a final determination by the court.

3. The district court shall give a petition for judicial review of the Board's order priority over other civil matters which are not expressly given priority by law.

Sec. 14. NRS 630A.560 is hereby amended to read as follows:
630A.560 In a manner consistent with the provisions of chapter 622A of NRS, the Board is authorized to prosecute all persons guilty of violation of the provisions of this chapter and may employ investigators and such other assistants as may be necessary to carry out the provisions of this chapter and chapter 622A of NRS . ~~[-but any expenses so incurred must not be paid out of the State General Fund.]~~

Sec. 15. NRS 630A.570 is hereby amended to read as follows:
630A.570 1. The Board through its ~~President~~ *Chair* or ~~Secretary-Treasurer~~ *Executive Officer* or the Attorney General may maintain in any court of competent jurisdiction a suit for an injunction against any person or persons practicing homeopathic medicine without a license or practicing as an advanced practitioner of homeopathy or as a homeopathic assistant without the appropriate certificate.

2. Such an injunction:

(a) May be issued without proof of actual damage sustained by any person, this provision being a preventive as well as a punitive measure.

(b) Does not relieve such person from criminal prosecution for practicing without a license or certificate.

Sec. 16. 1. Any administrative rules, regulations and standards adopted by an officer, agency or other entity whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remain in force until amended by the officer, agency or other entity to which the responsibility for the adoption of the rules, regulations and standards has been transferred.



2. Any contracts or other agreements entered into by an officer, agency or other entity whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity are binding upon the officer, agency or other entity to which the responsibility for the administration of the provisions of the contract or other agreement have been transferred. Such contracts and other agreements may be enforced by the officer, agency or other entity to which the responsibility for the enforcement of the provisions of the contract or other agreement has been transferred.

3. Any action taken by an officer, agency or other entity whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or entity remains in effect as if taken by the officer, agency or other entity to which the responsibility for the enforcement of such actions has been transferred.

Sec. 17. The Legislative Counsel shall in preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name has been changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

Sec. 18. NRS 630A.100, 630A.110, 630A.120, 630A.130, 630A.135, 630A.140, 630A.150, 630A.170, 630A.175, 630A.180 and 630A.190 are hereby repealed.

Sec. 19. This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act, and on January 1, 2020, for all other purposes.

LEADLINES OF REPEALED SECTIONS

630A.100 Number, appointment and terms of members.

630A.110 Qualifications of members.

630A.120 Expiration of term; removal of member; replacement of removed member.

630A.130 Oaths or affirmations of office.

630A.135 Acknowledgment of statutory ethical standards.

630A.140 Officers; Secretary-Treasurer to receive applications for licenses and certificates; salary of Secretary-Treasurer.

630A.150 Meetings; quorum.



- 630A.170 Seal.**
**630A.175 Unauthorized use of seal or designation of Board
or license or certificate issued by Board.**
630A.180 Fiscal year.
630A.190 Offices and employees.

