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FIRST REPRINT

A.B. 278

ASSEMBLY BILL NO. 278—ASSEMBLYWOMAN DURAN

MARCH 15, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Provides for the collection of certain information from physicians. (BDR 54-771)

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 health care; requiring a physician to complete a data request when renewing his or her license or registration; requiring licensing boards that license physicians to make the data request available to applicants for the renewal of a license or registration; requiring the Department of Health and Human Services to collect, maintain and report on information received from the data requests; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally requires a holder of a license to practice allopathic medicine to register biennially with the Board of Medical Examiners. (NRS 630.267) Existing law also requires the holders of certain special types of licenses to practice medicine to renew their licenses at various times. (NRS 630.258, 630.261, 630.2615, 630.262, 630.264, 630.2645, 630.265) Existing law requires a holder of a license to practice osteopathic medicine to renew his or her license annually or, for certain special types of licenses, at times determined by the State Board of Osteopathic Medicine. (NRS 633.401, 633.411, 633.415, 633.416, 633.417, 633.418, 633.471) **Section 4** of this bill requires the Department of Health and Human Services to develop and make available to the Board of Medical Examiners and the State Board of Osteopathic Medicine a data request to be administered to applicants for the renewal of a license or a biennial registration. **Section 4** requires the data request to solicit from each applicant certain information about the practice of the applicant. **Sections 1 and 2** of this bill require: (1) each holder of a license to practice as an allopathic or osteopathic physician to complete the data request; and (2) the Board of Medical Examiners and the State Board of Osteopathic Medicine to make the data request available to applicants. **Sections 1-2.5** of this bill prohibit the imposition of disciplinary action against: (1) an applicant who refuses or fails to complete a data request; or (2) a licensee



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who does not report such a failure to the applicable licensing board. **Section 4** requires the Department to collect and maintain the information received from the data request from the applicants and prepare an annual report relating to the data received. **Sections 1-4** of this bill provide that information collected using the data request is confidential.

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

Section 1. Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to any other requirements set forth in this chapter and any regulations adopted pursuant thereto, each applicant for the renewal of any type of license as a physician pursuant to this chapter or a biennial registration pursuant to NRS 630.267 shall complete the data request developed by the Department of Health and Human Services pursuant to section 4 of this act. The applicant shall provide to the Department all the information requested by the data request.

2. The Board shall make the data request described in subsection 1 available to applicants for the renewal of a license as a physician or biennial registration on an electronic application for the renewal of a license or registration or through a link included on the Internet website maintained by the Board.

3. An applicant for biennial registration or renewal of a license who refuses or fails to complete a data request pursuant to subsection 1 is not subject to disciplinary action, including, without limitation, refusal to issue the biennial registration or renew the license, for such refusal or failure.

4. The information contained in a completed data request is confidential and, except as required by section 4 of this act, must not be disclosed to any person or entity.

Sec. 1.3. NRS 630.3062 is hereby amended to read as follows:

630.3062 1. The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

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

(b) Altering medical records of a patient.

(c) 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.



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(d) Failure to make the medical records of a patient available for inspection and copying as provided in NRS 629.061, if the licensee is the custodian of health care records with respect to those records.

(e) Failure to comply with the requirements of NRS 630.3068.

(f) Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter, *except for a violation of section 1 of this act*, or the regulations of the Board within 30 days after the date the licensee knows or has reason to know of the violation.

(g) Failure to comply with the requirements of NRS 453.163, 453.164, 453.226, 639.23507, 639.23535 and 639.2391 to 639.23916, inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto.

(h) Fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, administering or dispensing of a controlled substance listed in schedule II, III or IV.

2. As used in this section, "custodian of health care records" has the meaning ascribed to it in NRS 629.016.

Sec. 1.6. 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. Knowingly or willfully disclosing a communication privileged pursuant to a statute or court order.

2. ~~Knowingly~~ *Except as otherwise provided in section 1 of this act, 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. ~~Knowingly~~ *Except as otherwise provided in section 1 of this act, 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. 2. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *In addition to any other requirements set forth in this chapter and any regulations adopted pursuant thereto, each applicant for the renewal of any type of license as an osteopathic physician pursuant to this chapter shall complete the data request developed by the Department of Health and Human Services pursuant to section 4 of this act. The applicant shall provide to the Department all the information included in the request.*

2. *The Board shall make the data request described in subsection 1 available to applicants for the renewal of a license as*



1 *an osteopathic physician on an electronic application for the*
2 *renewal of a license or through a link included on the Internet*
3 *website maintained by the Board.*

4 *3. An applicant for biennial registration or renewal of a*
5 *license who refuses or fails to complete a data request pursuant to*
6 *subsection 1 is not subject to disciplinary action, including,*
7 *without limitation, refusal to issue the biennial registration or*
8 *renew the license, for such refusal or failure.*

9 *4. The information contained in a completed data request is*
10 *confidential and, except as required by section 4 of this act, must*
11 *not be disclosed to any person or entity.*

12 **Sec. 2.5.** NRS 633.511 is hereby amended to read as follows:

13 633.511 1. The grounds for initiating disciplinary action
14 pursuant to this chapter are:

15 (a) Unprofessional conduct.

16 (b) Conviction of:

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

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

22 (3) A violation of any of the provisions of NRS 616D.200,
23 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

24 (4) Murder, voluntary manslaughter or mayhem;

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

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

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

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

33 (9) Any offense involving moral turpitude.

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

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

38 (e) Professional incompetence.

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

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

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

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

45 (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 cannabis being used for medical purposes in accordance with chapter 678C 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 , *except for a violation of section 2 of this act*, 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.

(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, 453.164, 453.226, 639.23507, 639.23535 and 639.2391 to 639.23916, inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto.

(x) Fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, administering or dispensing of a controlled substance listed in schedule II, III or IV.

(y) 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. 3. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350,



1 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068,
2 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830,
3 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870,
4 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061,
5 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725,
6 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049,
7 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
8 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180,
9 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008,
10 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455,
11 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249,
12 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147,
13 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335,
14 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460,
15 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685,
16 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153,
17 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350,
18 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175,
19 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,
20 432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207,
21 439.4941, 439.840, 439.914, 439B.420, 439B.754, 439B.760,
22 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395,
23 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345,
24 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188,
25 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,
26 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
27 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545,
28 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536,
29 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484E.070,
30 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160,
31 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090,
32 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012,
33 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238,
34 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425,
35 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069,
36 630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368,
37 632.121, 632.125, 632.3415, 632.405, 633.283, 633.301, 633.4715,
38 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
39 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
40 640A.220, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745,
41 640C.760, 640D.190, 640E.340, 641.090, 641.221, 641.325,
42 641A.191, 641A.262, 641A.289, 641B.170, 641B.282, 641B.460,
43 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180,
44 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,
45 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330,



1 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228,
2 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133,
3 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380,
4 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800,
5 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285,
6 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540,
7 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,
8 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696,
9 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538,
10 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120,
11 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, **and**
12 **sections 1, 2 and 4 of this act**, sections 35, 38 and 41 of chapter
13 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes
14 of Nevada 2013 and unless otherwise declared by law to be
15 confidential, all public books and public records of a governmental
16 entity must be open at all times during office hours to inspection by
17 any person, and may be fully copied or an abstract or memorandum
18 may be prepared from those public books and public records. Any
19 such copies, abstracts or memoranda may be used to supply the
20 general public with copies, abstracts or memoranda of the records or
21 may be used in any other way to the advantage of the governmental
22 entity or of the general public. This section does not supersede or in
23 any manner affect the federal laws governing copyrights or enlarge,
24 diminish or affect in any other manner the rights of a person in any
25 written book or record which is copyrighted pursuant to federal law.

26 2. A governmental entity may not reject a book or record
27 which is copyrighted solely because it is copyrighted.

28 3. A governmental entity that has legal custody or control of a
29 public book or record shall not deny a request made pursuant to
30 subsection 1 to inspect or copy or receive a copy of a public book or
31 record on the basis that the requested public book or record contains
32 information that is confidential if the governmental entity can
33 redact, delete, conceal or separate, including, without limitation,
34 electronically, the confidential information from the information
35 included in the public book or record that is not otherwise
36 confidential.

37 4. If requested, a governmental entity shall provide a copy of a
38 public record in an electronic format by means of an electronic
39 medium. Nothing in this subsection requires a governmental entity
40 to provide a copy of a public record in an electronic format or by
41 means of an electronic medium if:

42 (a) The public record:

43 (1) Was not created or prepared in an electronic format; and

44 (2) Is not available in an electronic format; or



(b) Providing the public record in an electronic format or by means of an electronic medium would:

(1) Give access to proprietary software; or

(2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.

5. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in the medium that is requested because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 4. Chapter 439A of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall develop and make available to the Board of Medical Examiners and the State Board of Osteopathic Medicine an electronic data request to be completed by an applicant for the renewal of a license as a physician or a biennial registration pursuant to NRS 630.267. The electronic data request must solicit from each such applicant the following information:

(a) Whether the applicant is employed by a hospital, a health system or an entity owned by a health system or practices independently from a hospital, a health system or an entity owned by a health system;

(b) If the applicant is employed by a hospital, a health system or an entity owned by a health system, the name of the hospital or health system or the entity and the health system that owns the entity, as applicable;

(c) If the applicant is employed by an entity other than a hospital, a health system or an entity owned by a health system, the name of the legal entity which owns the practice and any assumed or fictitious name of that entity known to the applicant; and

(d) If the applicant practices independently from a hospital, a health system or an entity owned by a health system, the name of the practice of the applicant.

2. The Department shall collect and maintain the information collected pursuant to subsection 1. Such information is confidential and any reporting of the information maintained pursuant to this section by the Department must be in an aggregate form that does not reveal the identity of any physician.



1 **3. The Department shall annually prepare and post on an**
2 **Internet website maintained by the Department a report based on**
3 **the data collected pursuant to subsection 1 that analyzes trends in**
4 **the employment and practices of physicians in this State.**

5 **Sec. 5.** 1. This section becomes effective upon passage and
6 approval.

7 2. Sections 1 to 4, inclusive, of this act become effective:

8 (a) Upon passage and approval for the purpose of adopting any
9 regulations and performing any other preparatory administrative
10 tasks that are necessary to carry out the provisions of this act; and

11 (b) On October 1, 2021, for all other purposes.

