

Amendment No. 181

Assembly Amendment to Assembly Bill No. 318	(BDR 54-761)
Proposed by: Assembly Committee on Commerce and Labor	
Amends: Summary: No Title: Yes Preamble: No 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.

DAN/EWR



Date: 4/16/2023

A.B. No. 318—Revises provisions governing certain providers of health care.
(BDR 54-761)



ASSEMBLY BILL NO. 318—ASSEMBLYMEN NGUYEN, GONZÁLEZ; BROWN-MAY, COHEN, D’SILVA, GALLANT, GORELOW, HIBBETTS, KOENIG, LA RUE HATCH, MOSCA, NEWBY, SUMMERS-ARMSTRONG AND TAYLOR

MARCH 16, 2023

JOINT SPONSORS: SENATORS DONATE AND PAZINA

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing certain providers of health care. (BDR 54-761)

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 ~~fomitted-material~~ is material to be omitted.

AN ACT relating to medicine; revising the account in which proceeds from certain penalties are deposited; revising certain procedures relating to the expiration of a license to practice medicine; requiring a physician assistant, practitioner of respiratory care or perfusionist or the insurer of such a person to report certain information relating to an action or claim of malpractice to the Board of Medical Examiners; providing administrative penalties; requiring the Board to investigate a physician assistant, practitioner of respiratory care or perfusionist in certain circumstances; authorizing the Board to examine such a person under certain circumstances; increasing the maximum amount of certain fines; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Board of Medical Examiners to impose upon a person a fine not to exceed \$5,000 for each violation committed by the person that constitutes grounds for disciplinary action against the person. (NRS 630.352) Existing law additionally requires that all money received by the Board from penalties be deposited with the State Treasurer for credit to the State General Fund. (NRS 630.110) Section 1 of this bill requires that all money from penalties be credited to an account in the State Treasury, selected by the State Treasurer and requires that the money in the account be used to support the improvement of health care or the practice of medicine in this State. Section 5.5 of this bill increases the maximum amount of the fine that the Board is authorized to impose for a violation that constitutes grounds for disciplinary action to \$10,000 for each such violation.

Existing law requires the holder of a license to practice medicine to submit a registration fee and certain information to the Board ~~[of Medical Examiners]~~ on or before June 30, or if June 30 is a Saturday, Sunday or legal holiday, on the next business day after June 30, of each odd-numbered year. Existing law requires the Board to make reasonable attempts to notify a

licensee: (1) at least once that the fee for biennial registration and the required information are due; and (2) that his or her license has expired. Existing law requires the Board to send a copy of such notice to the Drug Enforcement Administration of the United States Department of Justice. (NRS 630.267) **Section 1.5** of this bill requires the Board to provide notice to the holder of a license to practice medicine at least 60 days before the scheduled expiration of the license: (1) that the fees and required information are due; and (2) of the date on which the license is scheduled to expire. After such a license expires, **section 1.5** requires the Board to make reasonable attempts to notify the licensee of the expiration. **Section 1.5** also removes the requirement for the Board to provide a copy of each notice to the Drug Enforcement Administration and instead requires the Board to provide a list of expired licenses to the Drug Enforcement Administration and the State Board of Pharmacy.

Existing law requires a physician and the insurer of a physician to report to the Board any: (1) action for malpractice against the physician; (2) claim for malpractice against the physician that is submitted to arbitration or mediation; or (3) settlement, award, judgment or other disposition of such an action or claim. (NRS 630.3067, 630.3068) Existing law additionally requires a physician to report to the Board any sanctions imposed against the physician that are reportable to the National Practitioner Data Bank. (NRS 630.3068) Existing law authorizes the imposition of an administrative penalty against an insurer or physician that fails to report the required information. (NRS 630.3067, 630.3068) After receiving a report from an insurer or physician indicating that a judgment has been rendered or that such an action or claim has been resolved by settlement, existing law requires the Board to conduct an investigation to determine whether to impose disciplinary action against the physician, unless such an investigation has already commenced or been completed. (NRS 630.3069) Upon receiving such a report or determining that the conduct of a physician has raised a reasonable question as to his or her competence to practice medicine, existing law authorizes the Board to order the physician to undergo certain examinations to determine the fitness of the physician to practice medicine. (NRS 630.318) **Sections 2-5** of this bill make those provisions additionally applicable to physician assistants, practitioners of respiratory care and perfusionists.

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

Section 1. NRS 630.110 is hereby amended to read as follows:

630.110 1. Out of the money coming into the possession of the Board, each member and advisory 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.

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

3. Expenses of the Board and the expenses and salaries of its members and employees must be paid from the fees received by the Board pursuant to the provisions of this chapter, and no part of the salaries or expenses of the Board may be paid out of the State General Fund or from the penalties imposed by the Board pursuant to this chapter.

4. All money received by the Board from:

(a) Fees must be deposited in financial institutions in this State that are federally insured or insured by a private insurer pursuant to NRS 672.755, invested in treasury bills or notes of the United States, deposited in institutions in this State

whose business is the making of investments, or invested as authorized by NRS 355.140.

(b) Penalties must be deposited with the State Treasurer for credit to ~~the State General Fund~~ an account in the State Treasury, selected by the State Treasurer. The money in the account must be used to support the improvement of health care or the practice of medicine in this State.

~~[Section 1.]~~ Sec. 1.5. NRS 630.267 is hereby amended to read as follows:

630.267 1. Each holder of a license to practice medicine must, on or before June 30, or if June 30 is a Saturday, Sunday or legal holiday, on the next business day after June 30, of each odd-numbered year:

(a) Submit a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against him or her during the previous 2 years.

(b) Pay to the Secretary-Treasurer of the Board the applicable fee for biennial registration. This fee must be collected for the period for which a physician is licensed.

(c) Submit all information required to complete the biennial registration.

2. When a holder of a license fails to pay the fee for biennial registration and submit all information required to complete the biennial registration after they become due, his or her license to practice medicine in this State expires. The holder may, within 2 years after the date the license expires, upon payment of twice the amount of the current fee for biennial registration to the Secretary-Treasurer and submission of all information required to complete the biennial registration and after he or she is found to be in good standing and qualified under the provisions of this chapter, be reinstated to practice.

3. ~~[The]~~ Not later than 60 days before a license is scheduled to expire, the Board shall make such reasonable attempts as are practicable to notify ~~the~~ licensee:

(a) At least once that the fee for biennial registration and all information required to complete the biennial registration are due; and

(b) ~~[That] The date on which~~ his or her license ~~has expired.~~
~~→ A copy of this notice must be sent~~ is scheduled to expire.

4. After a license expires, the Board shall make such reasonable attempts as are practicable to notify the holder of the license that his or her license has expired.

5. Not later than September 30 of each odd-numbered year, the Board shall provide a list of licenses to practice medicine that have expired during that year to the Drug Enforcement Administration of the United States Department of Justice or its successor agency ~~and~~ and the State Board of Pharmacy.

Sec. 2. NRS 630.3067 is hereby amended to read as follows:

630.3067 1. The insurer of a physician, physician assistant, practitioner of respiratory care or perfusionist licensed under this chapter shall report to the Board:

(a) Any action for malpractice against the physician, physician assistant, practitioner of respiratory care or perfusionist not later than 45 days after the physician, physician assistant, practitioner of respiratory care or perfusionist receives service of a summons and complaint for the action;

(b) Any claim for malpractice against the physician, physician assistant, practitioner of respiratory care or perfusionist that is submitted to arbitration or mediation not later than 45 days after the claim is submitted to arbitration or mediation; and

(c) Any settlement, award, judgment or other disposition of any action or claim described in paragraph (a) or (b) not later than 45 days after the settlement, award, judgment or other disposition.

2. The Board shall report any failure to comply with subsection 1 by an insurer licensed in this State to the Division of Insurance of the Department of Business and Industry. If, after a hearing, the Division of Insurance determines that any such insurer failed to comply with the requirements of subsection 1, the Division may impose an administrative fine of not more than \$10,000 against the insurer for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

Sec. 3. NRS 630.3068 is hereby amended to read as follows:

630.3068 1. A physician , *physician assistant, practitioner of respiratory care or perfusionist* shall report to the Board:

(a) Any action for malpractice against the physician , *physician assistant, practitioner of respiratory care or perfusionist* not later than 45 days after the physician , *physician assistant, practitioner of respiratory care or perfusionist* receives service of a summons and complaint for the action;

(b) Any claim for malpractice against the physician , *physician assistant, practitioner of respiratory care or perfusionist* that is submitted to arbitration or mediation not later than 45 days after the claim is submitted to arbitration or mediation;

(c) Any settlement, award, judgment or other disposition of any action or claim described in paragraph (a) or (b) not later than 45 days after the settlement, award, judgment or other disposition ~~is~~ , *including, without limitation, any amount paid to resolve the claim;* and

(d) Any sanctions imposed against the physician , *physician assistant, practitioner of respiratory care or perfusionist* that are reportable to the National Practitioner Data Bank not later than 45 days after the sanctions are imposed.

2. If the Board finds that a physician , *physician assistant, practitioner of respiratory care or perfusionist* has violated any provision of this section, the Board may impose a fine of not more than \$5,000 against the physician , *physician assistant, practitioner of respiratory care or perfusionist* for each violation, in addition to any other fines or penalties permitted by law.

3. All reports made by a physician , *physician assistant, practitioner of respiratory care or perfusionist* pursuant to this section are public records.

Sec. 4. NRS 630.3069 is hereby amended to read as follows:

630.3069 If the Board receives a report pursuant to the provisions of NRS 630.3067, 630.3068 or 690B.250 indicating that a judgment has been rendered or an award has been made against a physician , *physician assistant, practitioner of respiratory care or perfusionist* regarding an action or claim for malpractice or that such an action or claim against the physician , *physician assistant, practitioner of respiratory care or perfusionist* has been resolved by settlement, the Board shall conduct an investigation to determine whether to impose disciplinary action against the physician , *physician assistant, practitioner of respiratory care or perfusionist* regarding the action or claim, unless the Board has already commenced or completed such an investigation regarding the action or claim before it receives the report.

Sec. 5. NRS 630.318 is hereby amended to read as follows:

630.318 1. If the Board or any investigative committee of the Board has reason to believe that the conduct of any physician , *physician assistant, practitioner of respiratory care or perfusionist* has raised a reasonable question as to his or her competence to practice medicine , *respiratory care or perfusion or*

1 *practice as a physician assistant, as applicable*, with reasonable skill and safety to
2 patients, or if the Board has received a report pursuant to the provisions of NRS
3 630.3067, 630.3068 or 690B.250 indicating that a judgment has been rendered or
4 an award has been made against a physician, *physician assistant, practitioner of*
5 *respiratory care or perfusionist* regarding an action or claim for malpractice or that
6 such an action or claim against the physician, *physician assistant, practitioner of*
7 *respiratory care or perfusionist* has been resolved by settlement, the Board or
8 committee may order that the physician, *physician assistant, practitioner of*
9 *respiratory care or perfusionist* undergo a mental or physical examination, an
10 examination testing his or her competence to practice medicine, *respiratory care*
11 *or perfusion or practice as a physician assistant, as applicable*, or any other
12 examination designated by the Board to assist the Board or committee in
13 determining the fitness of the physician, *physician assistant, practitioner of*
14 *respiratory care or perfusionist* to practice medicine ~~H~~, *respiratory care or*
15 *perfusion or practice as a physician assistant, as applicable*.

16 2. For the purposes of this section:

17 (a) Every physician, *physician assistant, practitioner of respiratory care or*
18 *perfusionist* who applies for a license or who is licensed under this chapter shall be
19 deemed to have given consent to submit to a mental or physical examination or an
20 examination testing his or her competence to practice medicine, *respiratory care*
21 *or perfusion or practice as a physician assistant, as applicable*, when ordered to
22 do so in writing by the Board or an investigative committee of the Board.

23 (b) The testimony or reports of a person who conducts an examination of a
24 physician, *physician assistant, practitioner of respiratory care or perfusionist* on
25 behalf of the Board or an investigative committee of the Board pursuant to this
26 section are not privileged communications.

27 3. Except in extraordinary circumstances, as determined by the Board, the
28 failure of a physician, *physician assistant, practitioner of respiratory care or*
29 *perfusionist* licensed under this chapter to submit to an examination when directed
30 as provided in this section constitutes an admission of the charges against the
31 physician ~~H~~, *physician assistant, practitioner of respiratory care or perfusionist*.

32 **Sec. 5.5. NRS 630.352 is hereby amended to read as follows:**

33 630.352 1. Any member of the Board, other than a member of an
34 investigative committee of the Board who participated in any determination
35 regarding a formal complaint in the matter or any member serving on a panel of the
36 Board at the hearing of the matter, may participate in an adjudication to obtain the
37 final order of the Board. At the adjudication, the Board shall consider any findings
38 of fact and conclusions of law submitted after the hearing and shall allow:

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

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

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

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

50 2. At the conclusion of the presentations of the parties and the complainant,
51 the Board shall deliberate and may by a majority vote impose discipline based upon
52 the findings of fact and conclusions of law and the presentations of the parties and
53 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 an alcohol or other substance use disorder or any other impairment;

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

(h) Impose a fine not to exceed ~~\$5,000~~ **\$10,000** 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 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. 6. 1. The provisions of NRS 630.3067, 630.3068, 630.3069 and 630.318, as amended by sections 2 to 5, inclusive, of this act, apply to any activity described in those sections which occurs on or after January 1, 2024, or is ongoing on January 1, 2024, regardless of when the relevant conduct of a physician assistant, practitioner of respiratory care or perfusionist occurred.

2. The amendatory provisions of section 5.5 of this act apply only to fines for violations that occur on or after January 1, 2024.

Sec. 7. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 6, inclusive, of this act become effective:

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

(b) On January 1, 2024, for all other purposes.