
SENATE BILL NO. 281—SENATOR SHAFFER (BY REQUEST)

MARCH 13, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to osteopathic physicians. (BDR 54-985)

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 osteopathic physicians; increasing the membership of the State Board of Osteopathic Medicine; requiring an applicant for a license to practice osteopathic medicine or an osteopathic physician's assistant for whom an application to employ an osteopathic physician's assistant is submitted to the State Board of Osteopathic Medicine to submit a complete set of his fingerprints to the Board for investigation of the criminal history of the applicant or osteopathic physician's assistant; authorizing an osteopathic physician to be appointed to certain governmental entities; expanding the circumstances under which an osteopathic physician may be designated to carry out certain duties relating to the practice of medicine; revising provisions relating to the confidentiality of investigations conducted by the Board; and providing other matters properly relating thereto.

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

1 **Section 1.** Chapter 633 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *In addition to any other requirements set forth in this*
4 *chapter, each applicant for a license to practice osteopathic*
5 *medicine, except a temporary or special license, or each*
6 *osteopathic physician's assistant for whom an application to*



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1 *employ an osteopathic physician's assistant is submitted to the*
2 *Board must submit to the Board a complete set of his fingerprints*
3 *and written permission authorizing the Board to forward the*
4 *fingerprints to the Central Repository for Nevada Records of*
5 *Criminal History for submission to the Federal Bureau of*
6 *Investigation for its report.*

7 2. *The Board may issue a provisional license pending receipt*
8 *of the report of the Federal Bureau of Investigation if the Board*
9 *determines that the applicant is otherwise qualified.*

10 3. *The Board shall revoke a provisional license upon receipt*
11 *of the report from the Federal Bureau of Investigation if the*
12 *report indicates that:*

13 (a) *The applicant or the osteopathic physician's assistant has*
14 *been convicted of an act that is a ground for disciplinary action*
15 *pursuant to NRS 633.511;*

16 (b) *The applicant or the osteopathic physician's assistant has*
17 *been convicted of a felony set forth in NRS 633.741; or*

18 (c) *A warrant for the arrest of the applicant or the osteopathic*
19 *physician's assistant has been issued by a court of competent*
20 *jurisdiction.*

21 **Sec. 2.** NRS 633.181 is hereby amended to read as follows:

22 633.181 The State Board of Osteopathic Medicine consists of
23 ~~five~~ *seven* members appointed by the Governor.

24 **Sec. 3.** NRS 633.191 is hereby amended to read as follows:

25 633.191 1. ~~Four~~ *Five* members of the Board must:

26 (a) Be licensed under this chapter;

27 (b) Be actually engaged in the practice of osteopathic medicine
28 in this state; and

29 (c) Have been so engaged in this state for a period of more than
30 5 years preceding their appointment.

31 2. ~~The remaining member~~ *Two members* must be ~~a resident~~
32 *residents* of the State of Nevada:

33 (a) Not licensed in any state to practice any healing art; and

34 (b) Not actively engaged in the administration of any medical
35 facility or facility for the dependent as defined in chapter 449 of
36 NRS.

37 **Sec. 4.** NRS 633.611 is hereby amended to read as follows:

38 633.611 1. All proceedings ~~subsequent to~~ *after* the filing of
39 a complaint are confidential, except to the extent necessary for the
40 conduct of an examination, until the Board determines to proceed
41 with disciplinary action. ~~##~~

42 2. *Except as otherwise provided in subsection 3, if* the Board
43 dismisses the complaint, the proceedings remain confidential. If the
44 Board proceeds with disciplinary action, confidentiality concerning
45 the proceedings is no longer required.



1 **3. The Board may disseminate any information or records**
2 **relating to an investigation of a complaint which has been**
3 **dismissed by the Board to any other licensing board, national**
4 **association of registered boards, an agency of the Federal**
5 **Government or of the State, the Attorney General or any law**
6 **enforcement agency.**

7 **Sec. 5.** NRS 637A.243 is hereby amended to read as follows:
8 637A.243 1. A hearing aid specialist licensed pursuant to this
9 chapter may sell hearing aids by catalog or mail if:

10 (a) He has received a written statement signed by a physician
11 licensed pursuant to chapter 630 **or 633** of NRS, an advanced
12 practitioner of nursing licensed pursuant to chapter 632 of NRS, an
13 audiologist licensed pursuant to chapter 637B of NRS or a hearing
14 aid specialist licensed pursuant to this chapter which verifies that he
15 has performed an otoscopic examination of that person and that the
16 results of the examination indicate that the person may benefit from
17 the use of a hearing aid;

18 (b) He has received a written statement signed by a physician
19 licensed pursuant to chapter 630 **or 633** of NRS, audiologist
20 licensed pursuant to chapter 637B of NRS or a hearing aid
21 specialist licensed pursuant to this chapter which verifies that he has
22 performed an audiometric examination of that person in compliance
23 with regulations adopted by the Board and that the results of the
24 examination indicate that the person may benefit from the use of a
25 hearing aid;

26 (c) He has received a written statement signed by a hearing aid
27 specialist licensed pursuant to this chapter which verifies that an ear
28 impression has been taken; and

29 (d) The person has signed a statement acknowledging that the
30 licensee is selling him the hearing aid by catalog or mail based upon
31 the information submitted by the person in accordance with this
32 section.

33 2. A hearing aid specialist who sells hearing aids by catalog or
34 mail shall maintain a record of each sale of a hearing aid made
35 pursuant to this section for not less than 5 years.

36 3. The Board may adopt regulations to carry out the provisions
37 of this section, including, without limitation, the information which
38 must be included in each record required to be maintained pursuant
39 to subsection 2.

40 **Sec. 6.** NRS 641C.130 is hereby amended to read as follows:

41 641C.130 The provisions of this chapter do not apply to:

42 1. A physician who is licensed pursuant to the provisions of
43 chapter 630 **or 633** of NRS;



1 2. A nurse who is licensed pursuant to the provisions of chapter
2 632 of NRS and is authorized by the State Board of Nursing to
3 engage in the practice of counseling alcohol and drug abusers;

4 3. A psychologist who is licensed pursuant to the provisions of
5 chapter 641 of NRS;

6 4. A marriage and family therapist who is licensed pursuant to
7 the provisions of chapter 641A of NRS and is authorized by the
8 Board of Examiners for Marriage and Family Therapists to engage
9 in the practice of counseling alcohol and drug abusers; or

10 5. A person who is licensed as a clinical social worker pursuant
11 to the provisions of chapter 641B of NRS and is authorized by the
12 Board of Examiners for Social Workers to engage in the practice of
13 counseling alcohol and drug abusers.

14 **Sec. 7.** NRS 209.3925 is hereby amended to read as follows:

15 209.3925 1. Except as otherwise provided in subsection 6,
16 the Director may assign an offender to the custody of the Division
17 of Parole and Probation of the Department of Public Safety to serve
18 a term of residential confinement pursuant to NRS 213.380, for not
19 longer than the remainder of his sentence, if:

20 (a) The Director has reason to believe that the offender is:

21 (1) Physically incapacitated to such a degree that he does not
22 presently, and likely will not in the future, pose a threat to the safety
23 of the public; or

24 (2) In ill health and expected to die within 12 months, and
25 does not presently, and likely will not in the future, pose a threat to
26 the safety of the public; and

27 (b) At least two physicians licensed pursuant to chapter 630 *or*
28 **633** of NRS, one of whom is not employed by the Department,
29 verify, in writing, that the offender is:

30 (1) Physically incapacitated; or

31 (2) In ill health and expected to die within 12 months.

32 2. If the Director intends to assign an offender to the custody of
33 the Division of Parole and Probation pursuant to this section, at least
34 45 days before the date the offender is expected to be released from
35 the custody of the Department, the Director shall notify:

36 (a) If the offender will reside within this state after he is released
37 from the custody of the Department, the board of county
38 commissioners of the county in which the offender will reside; and

39 (b) The Division of Parole and Probation.

40 3. If any victim of a crime committed by the offender has,
41 pursuant to subsection 4 of NRS 213.130, requested to be notified of
42 the consideration of a prisoner for parole and has provided a current
43 address, the Division of Parole and Probation shall notify the victim
44 that:



1 (a) The Director intends to assign the offender to the custody of
2 the Division of Parole and Probation pursuant to this section; and
3 (b) The victim may submit documents to the Division of Parole
4 and Probation regarding such an assignment.
5 If a current address has not been provided by a victim as required by
6 subsection 4 of NRS 213.130, the Division of Parole and Probation
7 must not be held responsible if notification is not received by the
8 victim. All personal information, including, but not limited to, a
9 current or former address, which pertains to a victim and which is
10 received by the Division of Parole and Probation pursuant to this
11 subsection is confidential.
12 4. If an offender assigned to the custody of the Division of
13 Parole and Probation pursuant to this section escapes or violates any
14 of the terms or conditions of his residential confinement:
15 (a) The Division of Parole and Probation may, pursuant to the
16 procedure set forth in NRS 213.410, return the offender to the
17 custody of the Department.
18 (b) The offender forfeits all or part of the credits for good
19 behavior earned by him before the escape or violation, as
20 determined by the Director. The Director may provide for a
21 forfeiture of credits pursuant to this paragraph only after proof of the
22 offense and notice to the offender and may restore credits forfeited
23 for such reasons as he considers proper. The decision of the Director
24 regarding such a forfeiture is final.
25 5. The assignment of an offender to the custody of the Division
26 of Parole and Probation pursuant to this section shall be deemed:
27 (a) A continuation of his imprisonment and not a release on
28 parole; and
29 (b) For the purposes of NRS 209.341, an assignment to a facility
30 of the Department,
31 except that the offender is not entitled to obtain any benefits or to
32 participate in any programs provided to offenders in the custody of
33 the Department.
34 6. The Director may not assign an offender to the custody of
35 the Division of Parole and Probation pursuant to this section if the
36 offender is sentenced to death or imprisonment for life without
37 the possibility of parole.
38 7. An offender does not have a right to be assigned to the
39 custody of the Division of Parole and Probation pursuant to this
40 section, or to remain in that custody after such an assignment, and it
41 is not intended that the provisions of this section or of NRS 213.371
42 to 213.410, inclusive, create any right or interest in liberty or
43 property or establish a basis for any cause of action against the
44 State, its political subdivisions, agencies, boards, commissions,
45 departments, officers or employees.



1 **Sec. 8.** NRS 433A.430 is hereby amended to read as follows:
2 433A.430 1. Whenever the Administrator determines that
3 Division facilities within the State are inadequate for the care of any
4 mentally ill person, he may designate two physicians, licensed under
5 the provisions of chapter 630 *or 633* of NRS, and familiar with the
6 field of psychiatry, to examine that person. If the two physicians
7 concur with the opinion of the Administrator, the Administrator may
8 contract with appropriate corresponding authorities in any other
9 state of the United States having adequate facilities for such
10 purposes for the reception, detention, care or treatment of that
11 person, but if the person in any manner objects to the transfer, the
12 procedures in subsection 3 of NRS 433.484 and subsections 2 and 3
13 of NRS 433.534 must be followed. The two physicians so
14 designated are entitled to a reasonable fee for their services which
15 must be paid by the county of the person's last known residence.

16 2. Money to carry out the provisions of this section must be
17 provided by direct legislative appropriation.

18 **Sec. 9.** NRS 439B.410 is hereby amended to read as follows:
19 439B.410 1. Except as otherwise provided in subsection 4,
20 each hospital in this state has an obligation to provide emergency
21 services and care, including care provided by physicians and nurses,
22 and to admit a patient where appropriate, regardless of the financial
23 status of the patient.

24 2. Except as otherwise provided in subsection 4, it is unlawful
25 for a hospital or a physician working in a hospital emergency room,
26 to:

27 (a) Refuse to accept or treat a patient in need of emergency
28 services and care; or

29 (b) Except when medically necessary in the judgment of the
30 attending physician:

31 (1) Transfer a patient to another hospital or health facility
32 unless, as documented in the patient's records:

33 (I) A determination has been made that the patient is
34 medically fit for transfer;

35 (II) Consent to the transfer has been given by the
36 receiving physician, hospital or health facility;

37 (III) The patient has been provided with an explanation of
38 the need for the transfer; and

39 (IV) Consent to the transfer has been given by the patient
40 or his legal representative; or

41 (2) Provide a patient with orders for testing at another
42 hospital or health facility when the hospital from which the orders
43 are issued is capable of providing that testing.

44 3. A physician, hospital or other health facility which treats a
45 patient as a result of a violation of subsection 2 by a hospital or a



1 physician working in the hospital is entitled to recover from that
2 hospital an amount equal to three times the charges for the treatment
3 provided that was billed by the physician, hospital or other health
4 facility which provided the treatment, plus reasonable attorney's
5 fees and costs.

6 4. This section does not prohibit the transfer of a patient from
7 one hospital to another:

8 (a) When the patient is covered by an insurance policy or other
9 contractual arrangement which provides for payment at the
10 receiving hospital;

11 (b) After the county responsible for payment for the care of an
12 indigent patient has exhausted the money which may be
13 appropriated for that purpose pursuant to NRS 428.050, 428.285 and
14 450.425; or

15 (c) When the hospital cannot provide the services needed by the
16 patient.

17 No transfer may be made pursuant to this subsection until the
18 patient's condition has been stabilized to a degree that allows
19 the transfer without an additional risk to the patient.

20 5. As used in this section:

21 (a) "Emergency services and care" means medical screening,
22 examination and evaluation by a physician or, to the extent
23 permitted by a specific statute, by a person under the supervision of
24 a physician, to determine if an emergency medical condition or
25 active labor exists and, if it does, the care, treatment and surgery by
26 a physician necessary to relieve or eliminate the emergency medical
27 condition or active labor, within the capability of the hospital. As
28 used in this paragraph:

29 (1) "Active labor" means, in relation to childbirth, labor that
30 occurs when:

31 (I) There is inadequate time before delivery to transfer the
32 patient safely to another hospital; or

33 (II) A transfer may pose a threat to the health and safety
34 of the patient or the unborn child.

35 (2) "Emergency medical condition" means the presence of
36 acute symptoms of sufficient severity, including severe pain, such
37 that the absence of immediate medical attention could reasonably be
38 expected to result in:

39 (I) Placing the health of the patient in serious jeopardy;

40 (II) Serious impairment of bodily functions; or

41 (III) Serious dysfunction of any bodily organ or part.

42 (b) "Medically fit" means that the condition of the patient has
43 been sufficiently stabilized so that he may be safely transported to
44 another hospital, or is such that, in the determination of the
45 attending physician, the transfer of the patient constitutes an



1 acceptable risk. Such a determination must be based upon the
2 condition of the patient, the expected benefits, if any, to the patient
3 resulting from the transfer and whether the risks to the patient's
4 health are outweighed by the expected benefits, and must be
5 documented in the patient's records before the transfer.

6 6. If an allegation of a violation of the provisions of subsection
7 2 is made against a hospital licensed pursuant to the provisions of
8 chapter 449 of NRS, the Health Division of the Department of
9 Human Resources shall conduct an investigation of the alleged
10 violation. Such a violation, in addition to any criminal penalties that
11 may be imposed, constitutes grounds for the denial, suspension or
12 revocation of such a license, or for the imposition of any sanction
13 prescribed by NRS 449.163.

14 7. If an allegation of a violation of the provisions of subsection
15 2 is made against ~~a~~:

16 (a) A physician licensed to practice medicine pursuant to the
17 provisions of chapter 630 of NRS, the Board of Medical Examiners
18 shall conduct an investigation of the alleged violation. Such a
19 violation, in addition to any criminal penalties that may be imposed,
20 constitutes grounds for initiating disciplinary action or denying
21 licensure pursuant to the provisions of subsection 3 of
22 NRS 630.3065.

23 (b) *An osteopathic physician licensed to practice osteopathic
24 medicine pursuant to the provisions of chapter 633 of NRS, the
25 State Board of Osteopathic Medicine shall conduct an
26 investigation of the alleged violation. Such a violation, in addition
27 to any criminal penalties that may be imposed, constitutes grounds
28 for initiating disciplinary action pursuant to the provisions of
29 subsection 1 of NRS 633.131.*

30 **Sec. 10.** NRS 442.003 is hereby amended to read as follows:

31 442.003 As used in this chapter, unless the context requires
32 otherwise:

33 1. "Advisory Board" means the Advisory Board on Maternal
34 and Child Health.

35 2. "Department" means the Department of Human Resources.

36 3. "Director" means the Director of the Department.

37 4. "Fetal alcohol syndrome" includes fetal alcohol effects.

38 5. "Health Division" means the Health Division of the
39 Department.

40 6. "Obstetric center" has the meaning ascribed to it in
41 NRS 449.0155.

42 7. "Provider of health care or other services" means:

43 (a) An alcohol and drug abuse counselor who is licensed or
44 certified pursuant to chapter 641C of NRS;



- 1 (b) A physician or a physician assistant who is licensed pursuant
- 2 to chapter 630 *or an osteopathic physician who is licensed*
- 3 *pursuant to chapter 633* of NRS and who practices in the area of
- 4 obstetrics and gynecology, family practice, internal medicine,
- 5 pediatrics or psychiatry;
- 6 (c) A licensed nurse;
- 7 (d) A licensed psychologist;
- 8 (e) A licensed marriage and family therapist;
- 9 (f) A licensed social worker; or
- 10 (g) The holder of a certificate of registration as a pharmacist.

11 **Sec. 11.** NRS 453A.030 is hereby amended to read as follows:

- 12 453A.030 "Attending physician" means a physician who:
- 13 1. Is licensed to practice medicine pursuant to the provisions of
 - 14 chapter 630 *or 633* of NRS; and
 - 15 2. Has primary responsibility for the care and treatment of a
 - 16 person diagnosed with a chronic or debilitating medical condition.

17 **Sec. 12.** NRS 453A.500 is hereby amended to read as follows:

18 453A.500 The Board of Medical Examiners shall not take any

19 disciplinary action against an attending physician on the basis that

20 the attending physician:

- 21 1. Advised a person whom the attending physician has
- 22 diagnosed as having a chronic or debilitating medical condition, or a
- 23 person whom the attending physician knows has been so diagnosed
- 24 by another physician licensed to practice medicine pursuant to the
- 25 provisions of chapter 630 *or 633* of NRS:

26 (a) About the possible risks and benefits of the medical use of

27 marijuana; or

28 (b) That the medical use of marijuana may mitigate the

29 symptoms or effects of the person's chronic or debilitating medical

30 condition,

31 if the advice is based on the attending physician's personal

32 assessment of the person's medical history and current medical

33 condition.

- 34 2. Provided the written documentation required pursuant to
- 35 paragraph (a) of subsection 2 of NRS 453A.210 for the issuance of a
- 36 registry identification card or pursuant to subparagraph (1) of
- 37 paragraph (b) of subsection 1 of NRS 453A.230 for the renewal of a
- 38 registry identification card, if:

39 (a) Such documentation is based on the attending physician's

40 personal assessment of the person's medical history and current

41 medical condition; and

42 (b) The physician has advised the person about the possible risks

43 and benefits of the medical use of marijuana.



1 **Sec. 13.** NRS 457.310 is hereby amended to read as follows:
2 457.310 1. The Task Force on Prostate Cancer, consisting of
3 11 members, is hereby created. The Task Force consists of:

4 (a) The following ex officio members:

5 (1) The Chief Executive Officer of Family to Family:
6 “Americans for Prostate Cancer Awareness and Support”;

7 (2) The Nevada Director of Us Too! International, Inc.; and

8 (3) The Executive Officer of the Public Employees’ Benefits
9 Program; and

10 (b) The following members appointed by the Governor:

11 (1) Two members who are physicians licensed pursuant to
12 chapter 630 *or* 633 of NRS;

13 (2) One member who is an officer or employee of the
14 University and Community College System of Nevada;

15 (3) One member who is an employee of the Bureau of
16 Disease Control and Intervention of the Health Division;

17 (4) One member who has had prostate cancer;

18 (5) One member who is related to a person who has had
19 prostate cancer; and

20 (6) Two members who are representatives of business.

21 2. If Family to Family: “Americans for Prostate Cancer
22 Awareness and Support” or Us Too! International, Inc., ceases to
23 exist, the highest officer or person in charge of any successor
24 organization shall serve as the ex officio member required by
25 subparagraph (1) or (2) of paragraph (a) of subsection 1 or, if there
26 is no successor organization, the Governor shall appoint a person to
27 serve pursuant to the applicable subparagraph.

28 3. Vacancies of members appointed to the Task Force must be
29 filled in the same manner as original appointments.

30 4. The Task Force shall annually submit a report concerning its
31 activities and any recommendations for legislation to the Director of
32 the Legislative Counsel Bureau for transmittal to the Legislature.

33 **Sec. 14.** NRS 467.015 is hereby amended to read as follows:

34 467.015 Each member of the Board must:

35 1. Be licensed to practice medicine pursuant to chapter 630 *or*
36 633 of NRS.

37 2. Have at least 5 years of experience in the practice of
38 medicine at the time of his appointment.

39 **Sec. 15.** NRS 695G.110 is hereby amended to read as follows:

40 695G.110 Each managed care organization shall employ or
41 contract with a physician who is licensed to practice medicine in the
42 State of Nevada pursuant to chapter 630 *or* 633 of NRS to serve as
43 its medical director.



1 **Sec. 16.** NRS 695G.150 is hereby amended to read as follows:
2 695G.150 Each managed care organization shall authorize
3 coverage of a health care service that has been recommended for the
4 insured by a provider of health care acting within the scope of his
5 practice if that service is covered by the health care plan of the
6 insured, unless:

7 1. The decision not to authorize coverage is made by a
8 physician who:

9 (a) Is licensed to practice medicine in the State of Nevada
10 pursuant to chapter 630 *or* 633 of NRS;

11 (b) Possesses the education, training and expertise to evaluate
12 the medical condition of the insured; and

13 (c) Has reviewed the available medical documentation, notes of
14 the attending physician, test results and other relevant medical
15 records of the insured.

16 The physician may consult with other providers of health care in
17 determining whether to authorize coverage.

18 2. The decision not to authorize coverage and the reason for the
19 decision have been transmitted in writing in a timely manner to the
20 insured, the provider of health care who recommended the service
21 and the primary care physician of the insured, if any.

22 **Sec. 17.** NRS 695G.190 is hereby amended to read as follows:

23 695G.190 1. As part of a quality assurance program
24 established pursuant to NRS 695G.180, each managed care
25 organization shall create a quality improvement committee directed
26 by a physician who is licensed to practice medicine in the State of
27 Nevada pursuant to chapter 630 *or* 633 of NRS.

28 2. Each managed care organization shall:

29 (a) Establish written guidelines setting forth the procedure for
30 selecting the members of the committee;

31 (b) Select members pursuant to such guidelines; and

32 (c) Provide staff to assist the committee.

33 3. The committee shall:

34 (a) Select and review appropriate medical records of insureds
35 and other data related to the quality of health care provided to
36 insureds by providers of health care;

37 (b) Review the clinical processes used by providers of health
38 care in providing services;

39 (c) Identify any problems related to the quality of health care
40 provided to insureds; and

41 (d) Advise providers of health care regarding issues related to
42 quality of care.

43 **Sec. 18.** The provisions of section 1 of this act apply only to
44 an application for a license to practice as an osteopathic physician or
45 an application to employ an osteopathic physician's assistant which



1 is received by the State Board of Osteopathic Medicine on or after
2 October 1, 2003.

3 **Sec. 19.** As soon as practicable after October 1, 2003, the
4 Governor shall appoint to the State Board of Osteopathic Medicine
5 pursuant to:

6 1. Subsection 2 of NRS 633.191, one member whose term
7 expires on September 30, 2006.

8 2. Subsection 1 of NRS 633.191, one member whose term
9 expires on September 30, 2007.

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