

ASSEMBLY BILL NO. 208—ASSEMBLYMEN HORNE, CONKLIN, ALLEN, ARBERRY JR., ATKINSON, CHRISTENSEN, DENIS, GANSERT, GERHARDT, GIUNCHIGLIANI, GRADY, HARDY, HETTRICK, KIRKPATRICK, KOIVISTO, LESLIE, MABEY, MANENDO, MARVEL, MCCLAIN, MCCLEARY, MORTENSON, MUNFORD, OCEGUERA, PARKS, PARNELL, PIERCE, SHERER, SIBLEY, SMITH AND WEBER

MARCH 15, 2005

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JOINT SPONSORS: SENATORS CARE, HORSFORD AND TITUS

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Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing physicians and osteopathic physicians. (BDR 54-1108)

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.

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AN ACT relating to medical professions; requiring an applicant for a license to practice medicine, licensed physicians and certain licensed osteopathic physicians to submit to a criminal background check; requiring certain disciplinary action to be taken against those applicants and physicians in certain circumstances; expanding the grounds for initiating disciplinary proceedings against physicians and osteopathic physicians; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

- 1 Existing law provides for the regulation and licensure of medical doctors in this
- 2 State by the Board of Medical Examiners. (Chapters 630 of NRS)
- 3 This bill requires an applicant for a license to practice medicine to submit to a
- 4 criminal background check. The Board of Medical Examiners is authorized to grant
- 5 a provisional license to an applicant who is otherwise qualified to allow him to
- 6 practice medicine until the background check is complete. The Board is required to
- 7 revoke the provisional license if the background check indicates that the applicant



8 has been convicted of an act that is grounds for disciplinary action or of a certain  
9 prohibited act which is punishable as a felony, including providing false  
10 information to the Board, practicing medicine without a license and other acts  
11 involving false information. To address physicians who are already licensed in this  
12 State, this bill requires all licensed physicians to submit to a criminal background  
13 check. If the criminal background check reveals a conviction of an act for which an  
14 applicant would be denied licensure, the Board is required to initiate disciplinary  
15 proceedings against the physician and revoke his license.

16 Existing law requires an applicant for a license to practice osteopathic medicine  
17 to submit to a criminal background check. (NRS 633.328) That provision was  
18 added to law by the Nevada Legislature in 2003 and did not require licensed  
19 osteopathic physicians to submit to a criminal background check. (Chapter 210,  
20 Statutes of Nevada 2003, at page 1174)

21 This bill requires an osteopathic physician who did not submit to a criminal  
22 background check when he applied for licensure to submit to a criminal  
23 background check. If the criminal background check reveals a conviction of an act  
24 for which an applicant would be denied licensure, the State Board of Osteopathic  
25 Medicine is required to initiate disciplinary proceedings against the physician and  
26 revoke his license.

27 Existing law specifies certain grounds for initiating disciplinary action against a  
28 physician and osteopathic physician and grounds for denying licensure to practice  
29 as a physician and osteopathic physician. (NRS 630.301, 633.511)

30 This bill adds to those grounds for disciplinary action or denial of a license the  
31 conviction of certain crimes.

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

1 **Section 1.** Chapter 630 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 medicine shall*  
5 *submit to the Board a complete set of his fingerprints and written*  
6 *permission authorizing the Board to forward the fingerprints to*  
7 *the Central Repository for Nevada Records of Criminal History*  
8 *for submission to the Federal Bureau of Investigation for its*  
9 *report.*

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

13 *3. The Board shall revoke a provisional license upon receipt*  
14 *of the report from the Federal Bureau of Investigation if the*  
15 *report indicates that:*

16 *(a) The applicant has been convicted of an act that is a ground*  
17 *for disciplinary action pursuant to NRS 630.301 to 630.3066,*  
18 *inclusive; or*

19 *(b) The applicant has been convicted of a violation of*  
20 *NRS 630.400.*



1       **Sec. 2.** NRS 630.301 is hereby amended to read as follows:

2       630.301 The following acts, among others, constitute grounds  
3 for initiating disciplinary action or denying licensure:

4       1. Conviction of a felony relating to the practice of medicine or  
5 the ability to practice medicine. A plea of nolo contendere is a  
6 conviction for the purposes of this subsection.

7       2. Conviction of violating any of the provisions of NRS  
8 616D.200, 616D.220, 616D.240, 616D.300, 616D.310, or 616D.350  
9 to 616D.440, inclusive.

10       3. The revocation, suspension, modification or limitation of the  
11 license to practice any type of medicine by any other jurisdiction or  
12 the surrender of the license or discontinuing the practice of medicine  
13 while under investigation by any licensing authority, a medical  
14 facility, a branch of the Armed Services of the United States, an  
15 insurance company, an agency of the Federal Government or an  
16 employer.

17       4. Malpractice, which may be evidenced by claims settled  
18 against a practitioner, but only if such malpractice is established by  
19 a preponderance of the evidence.

20       5. The engaging by a practitioner in any sexual activity with a  
21 patient who is currently being treated by the practitioner.

22       6. Disruptive behavior with physicians, hospital personnel,  
23 patients, members of the families of patients or any other persons if  
24 the behavior interferes with patient care or has an adverse impact on  
25 the quality of care rendered to a patient.

26       7. The engaging in conduct that violates the trust of a patient  
27 and exploits the relationship between the physician and the patient  
28 for financial or other personal gain.

29       8. The failure to offer appropriate procedures or studies, to  
30 protest inappropriate denials by organizations for managed care, to  
31 provide necessary services or to refer a patient to an appropriate  
32 provider, when such a failure occurs with the intent of positively  
33 influencing the financial well-being of the practitioner or an insurer.

34       9. The engaging in conduct that brings the medical profession  
35 into disrepute, including, without limitation, conduct that violates  
36 any provision of a national code of ethics adopted by the Board by  
37 regulation.

38       10. The engaging in sexual contact with the surrogate of a  
39 patient or other key persons related to a patient, including, without  
40 limitation, a spouse, parent or legal guardian, which exploits the  
41 relationship between the physician and the patient in a sexual  
42 manner.

43       ***11. Conviction of:***

44       ***(a) Murder, voluntary manslaughter or mayhem;***



1 (b) Any felony involving the use of a firearm or other deadly  
2 weapon;

3 (c) Assault with intent to kill or to commit sexual assault or  
4 mayhem;

5 (d) Sexual assault, statutory sexual seduction, incest, lewdness,  
6 indecent exposure or any other sexually related crime;

7 (e) Abuse or neglect of a child or contributory delinquency; or

8 (f) A violation of any federal or state law regulating the  
9 possession, distribution or use of any controlled substance or any  
10 dangerous drug as defined in chapter 454 of NRS.

11 **Sec. 3.** NRS 633.328 is hereby amended to read as follows:

12 633.328 1. In addition to any other requirements set forth in  
13 this chapter, each applicant for a license to practice osteopathic  
14 medicine, except a temporary or special license, or each osteopathic  
15 physician's assistant for whom an application to employ an  
16 osteopathic physician's assistant is submitted to the Board must  
17 submit to the Board a complete set of his fingerprints and written  
18 permission authorizing the Board to forward the fingerprints to the  
19 Central Repository for Nevada Records of Criminal History for  
20 submission to the Federal Bureau of Investigation for its report.

21 2. The Board may issue a provisional license pending receipt  
22 of the report of the Federal Bureau of Investigation if the Board  
23 determines that the applicant is otherwise qualified.

24 3. The Board shall revoke a provisional license upon receipt of  
25 the report from the Federal Bureau of Investigation if the report  
26 indicates that:

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

30 (b) The applicant or the osteopathic physician's assistant has  
31 been convicted of a felony set forth in NRS 633.741 . ~~;~~ ~~or~~

32 ~~—(c) A warrant for the arrest of the applicant or the osteopathic~~  
33 ~~physician's assistant has been issued by a court of competent~~  
34 ~~jurisdiction.]~~

35 **Sec. 4.** NRS 633.511 is hereby amended to read as follows:

36 633.511 The grounds for initiating disciplinary action pursuant  
37 to this chapter are:

38 1. Unprofessional conduct.

39 2. Conviction of:

40 (a) A violation of any federal or state law regulating the  
41 possession, distribution or use of any controlled substance or any  
42 dangerous drug as defined in chapter 454 of NRS;

43 (b) A felony relating to the practice of osteopathic medicine;

44 (c) A violation of any of the provisions of NRS 616D.200,  
45 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive; ~~or~~



- 1 (d) *Murder, voluntary manslaughter or mayhem;*
- 2 (e) *Any felony involving the use of a firearm or other deadly*
- 3 *weapon;*
- 4 (f) *Assault with intent to kill or to commit sexual assault or*
- 5 *mayhem;*
- 6 (g) *Sexual assault, statutory sexual seduction, incest, lewdness,*
- 7 *indecent exposure or any other sexually related crime;*
- 8 (h) *Abuse or neglect of a child or contributory delinquency; or*
- 9 (i) Any offense involving moral turpitude.

10 3. The suspension of the license to practice osteopathic  
11 medicine by any other jurisdiction.

12 4. Gross or repeated malpractice, which may be evidenced by  
13 claims of malpractice settled against a practitioner.

14 5. Professional incompetence.

15 6. Failure to comply with the requirements of NRS 633.527.

16 **Sec. 5.** 1. The Board of Medical Examiners shall, as soon as  
17 practicable on or after October 1, 2005, provide notice to each  
18 physician licensed pursuant to chapter 630 of NRS that the  
19 physician shall, on or before a date specified by the Board, submit to  
20 the Board a complete set of his fingerprints and written permission  
21 authorizing the Board to forward the fingerprints to the Central  
22 Repository for Nevada Records of Criminal History for submission  
23 to the Federal Bureau of Investigation for its report.

24 2. The willful failure of a physician to comply with the  
25 requirements of subsection 1 constitutes grounds for disciplinary  
26 action and the revocation of the license of the physician.

27 3. The Board shall initiate disciplinary proceedings upon  
28 receipt of the report from the Federal Bureau of Investigation if the  
29 report indicates that the physician has been convicted of:

30 (a) An act that is a ground for disciplinary action pursuant to  
31 NRS 630.301 to 630.3066, inclusive; or

32 (b) A violation of NRS 630.400.

33 4. Notwithstanding any provision of NRS 630.348 to the  
34 contrary, if the Board determines that a physician has been  
35 convicted of an act or felony specified in subsection 3, the Board  
36 shall revoke the license of the physician.

37 **Sec. 6.** 1. The State Board of Osteopathic Medicine shall, as  
38 soon as practicable on or after October 1, 2005, provide notice to  
39 each osteopathic physician licensed pursuant to chapter 633 of NRS  
40 whose application for a license to practice as an osteopathic  
41 physician was received by the State Board of Osteopathic Medicine  
42 before October 1, 2003, that the osteopathic physician shall, on or  
43 before a date specified by the Board, submit to the Board a complete  
44 set of his fingerprints and written permission authorizing the Board  
45 to forward the fingerprints to the Central Repository for Nevada



- 1 Records of Criminal History for submission to the Federal Bureau  
2 of Investigation for its report.
- 3 2. The willful failure of an osteopathic physician to comply  
4 with the requirements of subsection 1 constitutes grounds for  
5 disciplinary action and the revocation of the license of the  
6 osteopathic physician.
- 7 3. The Board shall initiate disciplinary proceedings upon  
8 receipt of the report from the Federal Bureau of Investigation if the  
9 report indicates that the osteopathic physician has been convicted of:
- 10 (a) An act that is a ground for disciplinary action pursuant to  
11 NRS 633.511; or
- 12 (b) A felony set forth in NRS 633.741.
- 13 4. Notwithstanding any provision of NRS 633.651 to the  
14 contrary, if the Board determines that an osteopathic physician has  
15 been convicted of an act or felony specified in subsection 3, the  
16 Board shall revoke the license of the osteopathic physician.





