
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

JOINT SPONSORS: SENATORS CARE, HORSFORD AND TITUS

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.

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. (Chapter 630 of NRS) As part of that
- 3 regulation, existing law provides specific acts that constitute grounds for initiating
- 4 disciplinary action or denying licensure to a medical doctor and certain related
- 5 professionals. (NRS 630.301)
- 6 This bill requires an applicant for a license to practice medicine to submit to a
- 7 criminal background check. This bill further expands the acts which constitute



8 grounds for initiating disciplinary action or denying licensure to include certain
9 additional crimes. If a criminal background check reveals a conviction of any of the
10 crimes listed, the Board may deny a license to the applicant. To address physicians
11 who are already licensed in this State, this bill also requires all licensed physicians
12 to submit to a criminal background check. If the criminal background check reveals
13 a conviction of an act for which an applicant would be denied licensure, the Board
14 is required to initiate disciplinary proceedings against the physician and revoke his
15 license.

16 Existing law provides specific acts that constitute grounds for initiating
17 disciplinary action against an osteopathic physician and certain related
18 professionals. (NRS 633.511)

19 This bill expands those acts to include the same crimes added to the similar
20 provision applicable to medical doctors and related professionals.

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

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

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 *In addition to any other requirements set forth in this chapter,*
4 *each applicant for a license to practice medicine shall submit to*
5 *the Board a complete set of his fingerprints and written permission*
6 *authorizing the Board to forward the fingerprints to the Central*
7 *Repository for Nevada Records of Criminal History for submission*
8 *to the Federal Bureau of Investigation for its report.*

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

10 630.301 The following acts, among others, constitute grounds
11 for initiating disciplinary action or denying licensure:

12 1. Conviction of a felony relating to the practice of medicine or
13 the ability to practice medicine. A plea of nolo contendere is a
14 conviction for the purposes of this subsection.

15 2. Conviction of violating any of the provisions of NRS
16 616D.200, 616D.220, 616D.240, 616D.300, 616D.310, or 616D.350
17 to 616D.440, inclusive.

18 3. The revocation, suspension, modification or limitation of the
19 license to practice any type of medicine by any other jurisdiction or
20 the surrender of the license or discontinuing the practice of medicine



1 while under investigation by any licensing authority, a medical
2 facility, a branch of the Armed Services of the United States, an
3 insurance company, an agency of the Federal Government or an
4 employer.

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

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

10 6. Disruptive behavior with physicians, hospital personnel,
11 patients, members of the families of patients or any other persons if
12 the behavior interferes with patient care or has an adverse impact on
13 the quality of care rendered to a patient.

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

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

22 9. The engaging in conduct that brings the medical profession
23 into disrepute, including, without limitation, conduct that violates
24 any provision of a national code of ethics adopted by the Board by
25 regulation.

26 10. The engaging in sexual contact with the surrogate of a
27 patient or other key persons related to a patient, including, without
28 limitation, a spouse, parent or legal guardian, which exploits the
29 relationship between the physician and the patient in a sexual
30 manner.

31 ***11. Conviction of:***

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

33 ***(b) Any felony involving the use of a firearm or other deadly***
34 ***weapon;***

35 ***(c) Assault with intent to kill or to commit sexual assault or***
36 ***mayhem;***

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

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

40 ***(f) 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; or***

43 ***(g) Any offense involving moral turpitude.***



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

2 633.328 ~~[+]~~ In addition to any other requirements set forth in
3 this chapter, each applicant for a license to practice osteopathic
4 medicine, except a temporary or special license, or each osteopathic
5 physician's assistant for whom an application to employ an
6 osteopathic physician's assistant is submitted to the Board must
7 submit to the Board a complete set of his fingerprints and written
8 permission authorizing the Board to forward the fingerprints to the
9 Central Repository for Nevada Records of Criminal History for
10 submission to the Federal Bureau of Investigation for its report.

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

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

17 ~~—(a) The applicant or the osteopathic physician's assistant has
18 been convicted of an act that is a ground for disciplinary action
19 pursuant to NRS 633.511;~~

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

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

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

26 633.511 The grounds for initiating disciplinary action pursuant
27 to this chapter are:

28 1. Unprofessional conduct.

29 2. Conviction of:

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

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

34 (c) A violation of any of the provisions of NRS 616D.200,
35 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive; ~~[or]~~

36 (d) *Murder, voluntary manslaughter or mayhem;*
37 (e) *Any felony involving the use of a firearm or other deadly*
38 *weapon;*

39 (f) *Assault with intent to kill or to commit sexual assault or*
40 *mayhem;*

41 (g) *Sexual assault, statutory sexual seduction, incest, lewdness,*
42 *indecent exposure or any other sexually related crime;*

43 (h) *Abuse or neglect of a child or contributory delinquency; or*

44 (i) Any offense involving moral turpitude.



1 3. The suspension of the license to practice osteopathic
2 medicine by any other jurisdiction.

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

5 5. Professional incompetence.

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

7 **Sec. 5.** 1. The Board of Medical Examiners shall, as soon as
8 practicable on or after October 1, 2005, provide notice to each
9 physician licensed pursuant to chapter 630 of NRS that the
10 physician shall, on or before the date on which the physician must
11 next submit the biennial registration required pursuant to NRS
12 630.267, submit to the Board a complete set of his fingerprints and
13 written permission authorizing the Board to forward the fingerprints
14 to the Central Repository for Nevada Records of Criminal History
15 for submission to the Federal Bureau of Investigation for its report.

16 2. The willful failure of a physician to comply with the
17 requirements of subsection 1 constitutes grounds for disciplinary
18 action and the revocation of the license of the physician.

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

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

24 (b) A violation of NRS 630.400.

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

29 **Sec. 6.** 1. The State Board of Osteopathic Medicine shall, as
30 soon as practicable on or after October 1, 2005, provide notice to
31 each osteopathic physician licensed pursuant to chapter 633 of NRS
32 whose application for a license to practice as an osteopathic
33 physician was received by the State Board of Osteopathic Medicine
34 before October 1, 2003, that the osteopathic physician shall, on or
35 before the date on which the osteopathic physician must next submit
36 an application for renewal of the license pursuant to NRS 633.471,
37 submit to the Board a complete set of his fingerprints and written
38 permission authorizing the Board to forward the fingerprints to the
39 Central Repository for Nevada Records of Criminal History for
40 submission to the Federal Bureau of Investigation for its report.

41 2. The willful failure of an osteopathic physician to comply
42 with the requirements of subsection 1 constitutes grounds for
43 disciplinary action and the revocation of the license of the
44 osteopathic physician.



- 1 3. The Board shall initiate disciplinary proceedings upon
2 receipt of the report from the Federal Bureau of Investigation if the
3 report indicates that the osteopathic physician has been convicted of:
4 (a) An act that is a ground for disciplinary action pursuant to
5 NRS 633.511; or
6 (b) A felony set forth in NRS 633.741.
7 4. Notwithstanding any provision of NRS 633.651 to the
8 contrary, if the Board determines that an osteopathic physician has
9 been convicted of an act or felony specified in subsection 3, the
10 Board shall revoke the license of the osteopathic physician.



