

SENATE BILL NO. 170—SENATOR HARDY

FEBRUARY 18, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to health care.
(BDR 54-523)

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; revising requirements governing the injection of neuromodulators derived from *Clostridium botulinum* or dermal and soft tissue fillers; requiring the State Board of Pharmacy to establish uniform professional discipline for certain violations by practitioners relating to the prescription of controlled substances; revising the definition of “chemical restraint” as used in provisions regulating the use of such restraint; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law prohibits the injection of neuromodulators that are derived from
2 *Clostridium botulinum* or dermal or soft tissue fillers: (1) by any person other than
3 certain providers of health care who are licensed in this State; and (2) at any
4 location other than a medical facility or the office of such a licensed provider of
5 health care. (NRS 454.217, 629.086) **Sections 1 and 17** of this bill additionally
6 authorize a physician or physician assistant licensed in any jurisdiction of the
7 United States to inject neuromodulators that are derived from *Clostridium*
8 *botulinum* or dermal or soft tissue fillers for demonstration purposes at an
9 educational event recognized by the Board of Medical Examiners or the State
10 Board of Osteopathic Medicine.

11 Existing law prescribes certain requirements relating to the prescription of a
12 controlled substance listed in schedule II, III or IV. (NRS 639.23507, 639.2391-
13 639.23916) Existing law requires each licensing board that regulates practitioners
14 who are authorized to prescribe a controlled substance to adopt regulations
15 providing for disciplinary action against a practitioner who inappropriately
16 prescribes a controlled substance listed in schedule II, III or IV or violates those
17 requirements. (NRS 630.323, 631.364, 632.352, 633.574, 635.152, 636.388)
18 **Sections 2, 6, 8, 9, 12 and 14** of this bill remove the authority of the licensing
19 boards that license practitioners to adopt such regulations. Instead, **section 15** of



20 this bill requires the State Board of Pharmacy to adopt regulations establishing
21 uniform disciplinary action to be imposed against a practitioner who commits any
22 such violation, and **sections 2, 6, 8, 9, 12 and 14** require the licensing boards that
23 regulate practitioners to impose disciplinary action for such violations in
24 accordance with those regulations. **Sections 3-5, 7, 10, 11 and 13** of this bill make
25 conforming changes.

26 Existing law limits the circumstances under which a mental health facility is
27 authorized to use chemical restraint on a consumer. (NRS 433.5486, 433.549,
28 433.5503) Existing law excludes from the definition of the term "chemical
29 restraint" the administration of drugs on a regular basis, as prescribed by a
30 physician, to treat the symptoms of mental, physical, emotional or behavioral
31 disorders and for assisting a person in gaining self-control over his or her impulses.
32 (NRS 433.5456) Existing law imposes various requirements concerning the use of
33 chemical restraints. (NRS 433.5486, 433.549) **Section 16** of this bill broadens that
34 exclusion to also include the administration of drugs, as prescribed by a physician,
35 for these purposes other than on a regular basis.

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

1 **Section 1.** NRS 629.086 is hereby amended to read as follows:
2 629.086 1. ~~1A~~ *Except as otherwise authorized by*
3 *subsection 2, a* person shall not inject dermal or soft tissue fillers:
4 (a) Unless the person is:
5 (1) A physician or physician assistant licensed pursuant to
6 chapter 630 of NRS;
7 (2) A dentist who has successfully completed the training
8 prescribed by the Board of Dental Examiners of Nevada pursuant to
9 NRS 631.391;
10 (3) A registered nurse or advanced practice registered nurse;
11 (4) A physician or physician assistant licensed pursuant to
12 chapter 633 of NRS; or
13 (5) A podiatric physician who has successfully completed the
14 training prescribed by the State Board of Podiatry pursuant to
15 NRS 635.200.
16 (b) Outside his or her scope of practice.
17 (c) At a location other than a medical facility or the office of a
18 physician or physician assistant licensed pursuant to chapter 630 or
19 633 of NRS, dentist, advanced practice registered nurse or podiatric
20 physician.
21 2. *A physician or physician assistant licensed in any state of*
22 *the United States, the District of Columbia, the Commonwealth of*
23 *Puerto Rico or any territory or insular possession subject to the*
24 *jurisdiction of the United States may inject dermal or soft tissue*
25 *fillers at an educational event recognized by the Board of Medical*
26 *Examiners or the State Board of Osteopathic Medicine only for*



1 *the purpose of demonstrating proper technique for performing*
2 *such an injection.*

3 3. A person who is authorized by ~~subsection 1~~ *this section* to
4 inject dermal or soft tissue fillers shall not delegate such injection to
5 a person who is prohibited by ~~subsection 1~~ *this section* from
6 injecting dermal or soft tissue fillers.

7 ~~3~~ 4. A person who violates any provision of this section is
8 guilty of a misdemeanor.

9 ~~4~~ 5. As used in this section, "dermal or soft tissue filler"
10 means a material that is injected into the skin to fill in wrinkles or
11 into the soft tissue to alter the contour of the soft tissue.

12 **Sec. 2.** NRS 630.323 is hereby amended to read as follows:

13 630.323 1. The Executive Director of the Board or his or her
14 designee shall review and evaluate any complaint or information
15 received from the Investigation Division of the Department of
16 Public Safety or the State Board of Pharmacy, including, without
17 limitation, information provided pursuant to NRS 453.164, or from
18 a law enforcement agency, professional licensing board or any other
19 source indicating that:

20 (a) A licensee has issued a fraudulent, illegal, unauthorized or
21 otherwise inappropriate prescription for a controlled substance listed
22 in schedule II, III or IV;

23 (b) A pattern of prescriptions issued by a licensee indicates that
24 the licensee has issued prescriptions in the manner described in
25 paragraph (a); or

26 (c) A patient of a licensee has acquired, used or possessed a
27 controlled substance listed in schedule II, III or IV in a fraudulent,
28 illegal, unauthorized or otherwise inappropriate manner.

29 2. If the Executive Director of the Board or his or her designee
30 receives information described in subsection 1 concerning the
31 licensee, the Executive Director or his or her designee must notify
32 the licensee as soon as practicable after receiving the information.

33 3. A review and evaluation conducted pursuant to subsection 1
34 must include, without limitation:

35 (a) A review of relevant information contained in the database
36 of the program established pursuant to NRS 453.162;

37 (b) A requirement that the licensee who is the subject of the
38 review and evaluation attest that he or she has complied with the
39 requirements of NRS 639.23507, 639.2391, 639.23911 and
40 639.23915, as applicable; and

41 (c) A request for additional relevant information from the
42 licensee who is the subject of the review and evaluation.

43 4. If, after a review and evaluation conducted pursuant to
44 subsection 1, the Executive Director or his or her designee
45 determines that a licensee may have issued a fraudulent, illegal,



1 unauthorized or otherwise inappropriate prescription for a controlled
2 substance listed in schedule II, III or IV, the Board must proceed as
3 if a written complaint had been filed against the licensee. If, after
4 conducting an investigation and a hearing in accordance with the
5 provisions of this chapter, the Board determines that the licensee
6 issued a fraudulent, illegal, unauthorized or otherwise inappropriate
7 prescription, the Board must impose appropriate disciplinary action
8 ~~+~~ *in accordance with the regulations adopted by the State Board*
9 *of Pharmacy pursuant to NRS 639.23916.*

10 5. When deemed appropriate, the Executive Director of the
11 Board may:

12 (a) Refer information acquired during a review and evaluation
13 conducted pursuant to subsection 1 to another professional licensing
14 board, law enforcement agency or other appropriate governmental
15 entity for investigation and criminal or administrative proceedings.

16 (b) Postpone any notification, review or part of such a review
17 required by this section if he or she determines that it is necessary to
18 avoid interfering with any pending administrative or criminal
19 investigation into the suspected fraudulent, illegal, unauthorized or
20 otherwise inappropriate prescribing, dispensing or use of a
21 controlled substance.

22 ~~{6. The Board shall adopt regulations providing for disciplinary~~
23 ~~action against a licensee for inappropriately prescribing a controlled~~
24 ~~substance listed in schedule II, III or IV or violating the provisions~~
25 ~~of NRS 639.2391 to 639.23916, inclusive, and any regulations~~
26 ~~adopted by the State Board of Pharmacy pursuant thereto. Such~~
27 ~~disciplinary action must include, without limitation, requiring the~~
28 ~~licensee to complete additional continuing education concerning~~
29 ~~prescribing controlled substances listed in schedules II, III and IV.]~~

30 **Sec. 3.** NRS 630.352 is hereby amended to read as follows:

31 630.352 1. Any member of the Board, other than a member
32 of an investigative committee of the Board who participated in any
33 determination regarding a formal complaint in the matter or any
34 member serving on a panel of the Board at the hearing of the matter,
35 may participate in an adjudication to obtain the final order of the
36 Board. At the adjudication, the Board shall consider any findings of
37 fact and conclusions of law submitted after the hearing and shall
38 allow:

39 (a) Counsel for the Board to present a disciplinary
40 recommendation and argument in support of the disciplinary
41 recommendation subject to the provisions of NRS 622A.200 and
42 622A.210;

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



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

5 ➔ The Board may limit the time within which the parties and the
6 complainant may make their arguments and statements.

7 2. At the conclusion of the presentations of the parties and the
8 complainant, the Board shall deliberate and may by a majority vote
9 impose discipline based upon the findings of fact and conclusions of
10 law and the presentations of the parties and the complainant.

11 3. If, in the findings of fact and conclusions of law, the Board,
12 hearing officer or panel of the Board determines that no violation
13 has occurred, the Board shall dismiss the charges, in writing, and
14 notify the respondent that the charges have been dismissed.

15 4. Except as otherwise provided in subsection 5 **H** and **NRS**
16 **630.323**, if the Board finds that a violation has occurred, it shall by
17 order take one or more of the following actions:

18 (a) Place the person on probation for a specified period on any
19 of the conditions specified in the order;

20 (b) Administer a written public reprimand to the person;

21 (c) Limit the person's practice or exclude one or more specified
22 branches of medicine from his or her practice;

23 (d) Suspend the person's license for a specified period or until
24 further order of the Board;

25 (e) Revoke the person's license;

26 (f) Require the person to participate in a program to correct
27 alcohol or drug dependence or any other impairment;

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

29 (h) Impose a fine not to exceed \$5,000 for each violation;

30 (i) Require the person to perform community service without
31 compensation;

32 (j) Require the person to take a physical or mental examination
33 or an examination testing his or her competence; and

34 (k) Require the person to fulfill certain training or educational
35 requirements.

36 5. If the Board finds that the respondent has violated the
37 provisions of NRS 439B.425, the Board shall suspend the
38 respondent's license for a specified period or until further order of
39 the Board.

40 6. The Board shall not administer a private reprimand if the
41 Board finds that a violation has occurred.

42 7. Within 30 days after the hearing before the Board, the Board
43 shall issue a final order, certified by the Secretary-Treasurer of the
44 Board, that imposes discipline and incorporates the findings of fact
45 and conclusions of law obtained from the hearing. An order that



1 imposes discipline and the findings of fact and conclusions of law
2 supporting that order are public records.

3 **Sec. 4.** NRS 630.356 is hereby amended to read as follows:

4 630.356 1. Any person aggrieved by a final order of the
5 Board is entitled to judicial review of the Board's order.

6 2. Every order that imposes a sanction against a licensee
7 pursuant to *NRS 630.323 or* subsection 4 or 5 of NRS 630.352 or
8 any regulation of the Board is effective from the date the Secretary-
9 Treasurer certifies the order until the date the order is modified or
10 reversed by a final judgment of the court. The court shall not stay
11 the order of the Board pending a final determination by the court.

12 3. The district court shall give a petition for judicial review of
13 the Board's order priority over other civil matters which are not
14 expressly given priority by law.

15 **Sec. 5.** NRS 631.350 is hereby amended to read as follows:

16 631.350 1. Except as otherwise provided in NRS 631.271,
17 631.2715, ~~and~~ 631.347 ~~and~~ *631.364*, the Board may:

18 (a) Refuse to issue a license to any person;

19 (b) Revoke or suspend the license or renewal certificate issued
20 by it to any person;

21 (c) Fine a person it has licensed;

22 (d) Place a person on probation for a specified period on any
23 conditions the Board may order;

24 (e) Issue a public reprimand to a person;

25 (f) Limit a person's practice to certain branches of dentistry;

26 (g) Require a person to participate in a program to correct
27 alcohol or drug abuse or any other impairment;

28 (h) Require that a person's practice be supervised;

29 (i) Require a person to perform community service without
30 compensation;

31 (j) Require a person to take a physical or mental examination or
32 an examination of his or her competence;

33 (k) Require a person to fulfill certain training or educational
34 requirements;

35 (l) Require a person to reimburse a patient; or

36 (m) Any combination thereof,

37 ↪ if the Board finds, by a preponderance of the evidence, that the
38 person has engaged in any of the activities listed in subsection 2.

39 2. The following activities may be punished as provided in
40 subsection 1:

41 (a) Engaging in the illegal practice of dentistry or dental
42 hygiene;

43 (b) Engaging in unprofessional conduct; or

44 (c) Violating any regulations adopted by the Board or the
45 provisions of this chapter.



1 3. The Board may delegate to a hearing officer or panel its
2 authority to take any disciplinary action pursuant to this chapter,
3 impose and collect fines therefor and deposit the money therefrom
4 in banks, credit unions, savings and loan associations or savings
5 banks in this State.

6 4. If a hearing officer or panel is not authorized to take
7 disciplinary action pursuant to subsection 3 and the Board deposits
8 the money collected from the imposition of fines with the State
9 Treasurer for credit to the State General Fund, it may present a
10 claim to the State Board of Examiners for recommendation to the
11 Interim Finance Committee if money is needed to pay attorney's
12 fees or the costs of an investigation, or both.

13 5. The Board shall not administer a private reprimand.

14 6. An order that imposes discipline and the findings of fact and
15 conclusions of law supporting that order are public records.

16 **Sec. 6.** NRS 631.364 is hereby amended to read as follows:

17 631.364 1. The Executive Director of the Board or his or her
18 designee shall review and evaluate any complaint or information
19 received from the Investigation Division of the Department of
20 Public Safety or the State Board of Pharmacy, including, without
21 limitation, information provided pursuant to NRS 453.164, or from
22 a law enforcement agency, professional licensing board or any other
23 source indicating that:

24 (a) A licensee has issued a fraudulent, illegal, unauthorized or
25 otherwise inappropriate prescription for a controlled substance listed
26 in schedule II, III or IV;

27 (b) A pattern of prescriptions issued by a licensee indicates that
28 the licensee has issued prescriptions in the manner described in
29 paragraph (a); or

30 (c) A patient of a licensee has acquired, used or possessed a
31 controlled substance listed in schedule II, III or IV in a fraudulent,
32 illegal, unauthorized or otherwise inappropriate manner.

33 2. If the Executive Director of the Board or his or her designee
34 receives information described in subsection 1 concerning the
35 licensee, the Executive Director or his or her designee must notify
36 the licensee as soon as practicable after receiving the information.

37 3. A review and evaluation conducted pursuant to subsection 1
38 must include, without limitation:

39 (a) A review of relevant information contained in the database
40 of the program established pursuant to NRS 453.162;

41 (b) A requirement that the licensee who is the subject of the
42 review and evaluation attest that he or she has complied with the
43 requirements of NRS 639.23507, 639.2391, 639.23911 and
44 639.23915, as applicable; and



1 (c) A request for additional relevant information from the
2 licensee who is the subject of the review and evaluation.

3 4. If, after a review and evaluation conducted pursuant to
4 subsection 1, the Executive Director or his or her designee
5 determines that a licensee may have issued a fraudulent, illegal,
6 unauthorized or otherwise inappropriate prescription for a controlled
7 substance listed in schedule II, III or IV, the Board must proceed as
8 if a written complaint had been filed against the licensee. If, after
9 conducting an investigation and a hearing in accordance with the
10 provisions of this chapter, the Board determines that the licensee
11 issued a fraudulent, illegal, unauthorized or otherwise inappropriate
12 prescription, the Board must impose appropriate disciplinary action
13 ~~in accordance with the regulations adopted by the State Board~~
14 ~~of Pharmacy pursuant to NRS 639.23916.~~

15 5. When deemed appropriate, the Executive Director of the
16 Board may:

17 (a) Refer information acquired during a review and evaluation
18 conducted pursuant to subsection 1 to another professional licensing
19 board, law enforcement agency or other appropriate governmental
20 entity for investigation and criminal or administrative proceedings.

21 (b) Postpone any notification, review or part of such a review
22 required by this section if he or she determines that it is necessary to
23 avoid interfering with any pending administrative or criminal
24 investigation into the suspected fraudulent, illegal, unauthorized or
25 otherwise inappropriate prescribing, dispensing or use of a
26 controlled substance.

27 ~~{6. The Board shall adopt regulations providing for disciplinary~~
28 ~~action against a licensee for inappropriately prescribing a controlled~~
29 ~~substance listed in schedule II, III or IV or violating the provisions~~
30 ~~of NRS 639.2391 to 639.23916, inclusive, and any regulations~~
31 ~~adopted by the State Board of Pharmacy pursuant thereto. Such~~
32 ~~disciplinary action must include, without limitation, requiring the~~
33 ~~licensee to complete additional continuing education concerning~~
34 ~~prescribing controlled substances listed in schedules II, III and IV.}~~

35 **Sec. 7.** NRS 632.347 is hereby amended to read as follows:

36 632.347 1. ~~{The}~~ *In addition to the disciplinary action*
37 *required by NRS 632.352, the* Board may deny, revoke or suspend
38 any license or certificate applied for or issued pursuant to this
39 chapter, or take other disciplinary action against a licensee or holder
40 of a certificate, upon determining that the licensee or certificate
41 holder:

42 (a) Is guilty of fraud or deceit in procuring or attempting to
43 procure a license or certificate pursuant to this chapter.

44 (b) Is guilty of any offense:



1 (1) Involving moral turpitude; or
2 (2) Related to the qualifications, functions or duties of a
3 licensee or holder of a certificate,
4 ➤ in which case the record of conviction is conclusive evidence
5 thereof.

6 (c) Has been convicted of violating any of the provisions of
7 NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440,
8 inclusive.

9 (d) Is unfit or incompetent by reason of gross negligence or
10 recklessness in carrying out usual nursing functions.

11 (e) Uses any controlled substance, dangerous drug as defined in
12 chapter 454 of NRS, or intoxicating liquor to an extent or in a
13 manner which is dangerous or injurious to any other person or
14 which impairs his or her ability to conduct the practice authorized
15 by the license or certificate.

16 (f) Is a person with mental incompetence.

17 (g) Is guilty of unprofessional conduct, which includes, but is
18 not limited to, the following:

19 (1) Conviction of practicing medicine without a license in
20 violation of chapter 630 of NRS, in which case the record of
21 conviction is conclusive evidence thereof.

22 (2) Impersonating any applicant or acting as proxy for an
23 applicant in any examination required pursuant to this chapter for
24 the issuance of a license or certificate.

25 (3) Impersonating another licensed practitioner or holder of a
26 certificate.

27 (4) Permitting or allowing another person to use his or her
28 license or certificate to practice as a licensed practical nurse,
29 registered nurse, nursing assistant or medication aide - certified.

30 (5) Repeated malpractice, which may be evidenced by claims
31 of malpractice settled against the licensee or certificate holder.

32 (6) Physical, verbal or psychological abuse of a patient.

33 (7) Conviction for the use or unlawful possession of a
34 controlled substance or dangerous drug as defined in chapter 454 of
35 NRS.

36 (h) Has willfully or repeatedly violated the provisions of this
37 chapter. The voluntary surrender of a license or certificate issued
38 pursuant to this chapter is prima facie evidence that the licensee or
39 certificate holder has committed or expects to commit a violation of
40 this chapter.

41 (i) Is guilty of aiding or abetting any person in a violation of this
42 chapter.

43 (j) Has falsified an entry on a patient's medical chart concerning
44 a controlled substance.



1 (k) Has falsified information which was given to a physician,
2 pharmacist, podiatric physician or dentist to obtain a controlled
3 substance.

4 (l) Has knowingly procured or administered a controlled
5 substance or a dangerous drug as defined in chapter 454 of NRS that
6 is not approved by the United States Food and Drug Administration,
7 unless the unapproved controlled substance or dangerous drug:

8 (1) Was procured through a retail pharmacy licensed
9 pursuant to chapter 639 of NRS;

10 (2) Was procured through a Canadian pharmacy which is
11 licensed pursuant to chapter 639 of NRS and which has been
12 recommended by the State Board of Pharmacy pursuant to
13 subsection 4 of NRS 639.2328;

14 (3) Is marijuana being used for medical purposes in
15 accordance with chapter 453A of NRS; or

16 (4) Is an investigational drug or biological product prescribed
17 to a patient pursuant to NRS 630.3735 or 633.6945.

18 (m) Has been disciplined in another state in connection with a
19 license to practice nursing or a certificate to practice as a nursing
20 assistant or medication aide - certified, or has committed an act in
21 another state which would constitute a violation of this chapter.

22 (n) Has engaged in conduct likely to deceive, defraud or
23 endanger a patient or the general public.

24 (o) Has willfully failed to comply with a regulation, subpoena or
25 order of the Board.

26 (p) Has operated a medical facility at any time during which:

27 (1) The license of the facility was suspended or revoked; or

28 (2) An act or omission occurred which resulted in the
29 suspension or revocation of the license pursuant to NRS 449.160.

30 ➔ This paragraph applies to an owner or other principal responsible
31 for the operation of the facility.

32 (q) Is an advanced practice registered nurse who has failed to
33 obtain any training required by the Board pursuant to
34 NRS 632.2375.

35 (r) Is an advanced practice registered nurse who has failed to
36 comply with the provisions of NRS 453.163, 453.164 ~~[(s) or 453.226~~
37 ~~[(, 639.23507, 639.2391 to 639.23916, inclusive.)]~~ and any
38 regulations adopted by the State Board of Pharmacy pursuant
39 thereto.

40 ~~[(s) Has engaged in the fraudulent, illegal, unauthorized or~~
41 ~~otherwise inappropriate prescribing, administering or dispensing of~~
42 ~~a controlled substance listed in schedule II, III or IV.~~

43 ~~—(t) (s)~~ Has violated the provisions of NRS 454.217 or 629.086.

44 2. For the purposes of this section, a plea or verdict of guilty or
45 guilty but mentally ill or a plea of nolo contendere constitutes a



1 conviction of an offense. The Board may take disciplinary action
2 pending the appeal of a conviction.

3 3. A licensee or certificate holder is not subject to disciplinary
4 action solely for administering auto-injectable epinephrine pursuant
5 to a valid order issued pursuant to NRS 630.374 or 633.707.

6 4. As used in this section, "investigational drug or biological
7 product" has the meaning ascribed to it in NRS 454.351.

8 **Sec. 8.** NRS 632.352 is hereby amended to read as follows:

9 632.352 1. The Executive Director of the Board or his or her
10 designee shall review and evaluate any complaint or information
11 received from the Investigation Division of the Department of
12 Public Safety or the State Board of Pharmacy, including, without
13 limitation, information provided pursuant to NRS 453.164, or from
14 a law enforcement agency, professional licensing board or any other
15 source indicating that:

16 (a) A licensee has issued a fraudulent, illegal, unauthorized or
17 otherwise inappropriate prescription for a controlled substance listed
18 in schedule II, III or IV;

19 (b) A pattern of prescriptions issued by a licensee indicates that
20 the licensee has issued prescriptions in the manner described in
21 paragraph (a); or

22 (c) A patient of a licensee has acquired, used or possessed a
23 controlled substance listed in schedule II, III or IV in a fraudulent,
24 illegal, unauthorized or otherwise inappropriate manner.

25 2. If the Executive Director of the Board or his or her designee
26 receives information described in subsection 1 concerning the
27 licensee, the Executive Director or his or her designee must notify
28 the licensee as soon as practicable after receiving the information.

29 3. A review and evaluation conducted pursuant to subsection 1
30 must include, without limitation:

31 (a) A review of relevant information contained in the database
32 of the program established pursuant to NRS 453.162;

33 (b) A requirement that the licensee who is the subject of the
34 review and evaluation attest that he or she has complied with the
35 requirements of NRS 639.23507, 639.2391, 639.23911 and
36 639.23915, as applicable; and

37 (c) A request for additional relevant information from the
38 licensee who is the subject of the review and evaluation.

39 4. If, after a review and evaluation conducted pursuant to
40 subsection 1, the Executive Director or his or her designee
41 determines that a licensee may have issued a fraudulent, illegal,
42 unauthorized or otherwise inappropriate prescription for a controlled
43 substance listed in schedule II, III or IV, the Board must proceed as
44 if a written complaint had been filed against the licensee. If, after
45 conducting an investigation and a hearing in accordance with the



1 provisions of this chapter, the Board determines that the licensee
2 issued a fraudulent, illegal, unauthorized or otherwise inappropriate
3 prescription, the Board must impose appropriate disciplinary action
4 ~~in accordance with the regulations adopted by the State Board~~
5 ~~of Pharmacy pursuant to NRS 639.23916.~~

6 5. When deemed appropriate, the Executive Director of the
7 Board may:

8 (a) Refer information acquired during a review and evaluation
9 conducted pursuant to subsection 1 to another professional licensing
10 board, law enforcement agency or other appropriate governmental
11 entity for investigation and criminal or administrative proceedings.

12 (b) Postpone any notification, review or part of such a review
13 required by this section if he or she determines that it is necessary to
14 avoid interfering with any pending administrative or criminal
15 investigation into the suspected fraudulent, illegal, unauthorized or
16 otherwise inappropriate prescribing, dispensing or use of a
17 controlled substance.

18 ~~6. The Board shall adopt regulations providing for disciplinary~~
19 ~~action against a licensee for inappropriately prescribing a controlled~~
20 ~~substance listed in schedule II, III or IV or violating the provisions~~
21 ~~of NRS 639.2391 to 639.23916, inclusive, and any regulations~~
22 ~~adopted by the State Board of Pharmacy pursuant thereto. Such~~
23 ~~disciplinary action must include, without limitation, requiring the~~
24 ~~licensee to complete additional continuing education concerning~~
25 ~~prescribing controlled substances listed in schedules II, III and IV.]~~

26 **Sec. 9.** NRS 633.574 is hereby amended to read as follows:

27 633.574 1. The Executive Director of the Board or his or her
28 designee shall review and evaluate any complaint or information
29 received from the Investigation Division of the Department of
30 Public Safety or the State Board of Pharmacy, including, without
31 limitation, information provided pursuant to NRS 453.164, or from
32 a law enforcement agency, professional licensing board or any other
33 source indicating that:

34 (a) A licensee has issued a fraudulent, illegal, unauthorized or
35 otherwise inappropriate prescription for a controlled substance listed
36 in schedule II, III or IV;

37 (b) A pattern of prescriptions issued by a licensee indicates that
38 the licensee has issued prescriptions in the manner described in
39 paragraph (a); or

40 (c) A patient of a licensee has acquired, used or possessed a
41 controlled substance listed in schedule II, III or IV in a fraudulent,
42 illegal, unauthorized or otherwise inappropriate manner.

43 2. If the Executive Director of the Board or his or her designee
44 receives information described in subsection 1 concerning the



1 licensee, the Executive Director or his or her designee must notify
2 the licensee as soon as practicable after receiving the information.

3 3. A review and evaluation conducted pursuant to subsection 1
4 must include, without limitation:

5 (a) A review of relevant information contained in the database
6 of the program established pursuant to NRS 453.162;

7 (b) A requirement that the licensee who is the subject of the
8 review and evaluation attest that he or she has complied with the
9 requirements of NRS 639.23507, 639.2391, 639.23911 and
10 639.23915, as applicable; and

11 (c) A request for additional relevant information from the
12 licensee who is the subject of the review and evaluation.

13 4. If, after a review and evaluation conducted pursuant to
14 subsection 1, the Executive Director or his or her designee
15 determines that a licensee may have issued a fraudulent, illegal,
16 unauthorized or otherwise inappropriate prescription for a controlled
17 substance listed in schedule II, III or IV, the Board must proceed as
18 if a written complaint had been filed against the licensee. If, after
19 conducting an investigation and a hearing in accordance with the
20 provisions of this chapter, the Board determines that the licensee
21 issued a fraudulent, illegal, unauthorized or otherwise inappropriate
22 prescription, the Board must impose appropriate disciplinary action
23 *in accordance with the regulations adopted by the State Board*
24 *of Pharmacy pursuant to NRS 639.23916.*

25 5. When deemed appropriate, the Executive Director of the
26 Board may:

27 (a) Refer information acquired during a review and evaluation
28 conducted pursuant to subsection 1 to another professional licensing
29 board, law enforcement agency or other appropriate governmental
30 entity for investigation and criminal or administrative proceedings.

31 (b) Postpone any notification, review or part of such a review
32 required by this section if he or she determines that it is necessary to
33 avoid interfering with any pending administrative or criminal
34 investigation into the suspected fraudulent, illegal, unauthorized or
35 otherwise inappropriate prescribing, dispensing or use of a
36 controlled substance.

37 ~~§6.—The Board shall adopt regulations providing for disciplinary~~
38 ~~action against a licensee for inappropriately prescribing a controlled~~
39 ~~substance listed in schedule II, III or IV or violating the provisions~~
40 ~~of NRS 639.2391 to 639.23916, inclusive, and any regulations~~
41 ~~adopted by the State Board of Pharmacy pursuant thereto. Such~~
42 ~~disciplinary action must include, without limitation, requiring the~~
43 ~~licensee to complete additional continuing education concerning~~
44 ~~prescribing controlled substances listed in schedules II, III and IV.]~~



1 **Sec. 10.** NRS 633.651 is hereby amended to read as follows:
2 633.651 1. ~~##~~ *Except as otherwise provided in NRS*
3 *633.574, if* the Board finds a person guilty in a disciplinary
4 proceeding, it shall by order take one or more of the following
5 actions:

6 (a) Place the person on probation for a specified period or until
7 further order of the Board.

8 (b) Administer to the person a public reprimand.

9 (c) Limit the practice of the person to, or by the exclusion of,
10 one or more specified branches of osteopathic medicine.

11 (d) Suspend the license of the person to practice osteopathic
12 medicine or to practice as a physician assistant for a specified period
13 or until further order of the Board.

14 (e) Revoke the license of the person to practice osteopathic
15 medicine or to practice as a physician assistant.

16 (f) Impose a fine not to exceed \$5,000 for each violation.

17 (g) Require supervision of the practice of the person.

18 (h) Require the person to perform community service without
19 compensation.

20 (i) Require the person to complete any training or educational
21 requirements specified by the Board.

22 (j) Require the person to participate in a program to correct
23 alcohol or drug dependence or any other impairment.

24 ➤ The order of the Board may contain any other terms, provisions
25 or conditions as the Board deems proper and which are not
26 inconsistent with law.

27 2. The Board shall not administer a private reprimand.

28 3. An order that imposes discipline and the findings of fact and
29 conclusions of law supporting that order are public records.

30 **Sec. 11.** NRS 635.130 is hereby amended to read as follows:

31 635.130 1. ~~the~~ *In addition to the reasons for disciplinary*
32 *action prescribed by NRS 635.152, the* Board, after notice and a
33 hearing as required by law, and upon any cause enumerated in
34 subsection 2, may take one or more of the following disciplinary
35 actions:

36 (a) Deny an application for a license or refuse to renew a
37 license.

38 (b) Suspend or revoke a license.

39 (c) Place a licensee on probation.

40 (d) Impose a fine not to exceed \$5,000.

41 2. The Board may take disciplinary action against a licensee for
42 any of the following causes:

43 (a) The making of a false statement in any affidavit required of
44 the applicant for application, examination or licensure pursuant to
45 the provisions of this chapter.



1 (b) Lending the use of the holder's name to an unlicensed
2 person.

3 (c) If the holder is a podiatric physician, permitting an
4 unlicensed person in his or her employ to practice as a podiatry
5 hygienist.

6 (d) Habitual indulgence in the use of alcohol or any controlled
7 substance which impairs the intellect and judgment to such an extent
8 as in the opinion of the Board incapacitates the holder in the
9 performance of his or her professional duties.

10 (e) Conviction of a crime involving moral turpitude.

11 (f) Conviction of violating any of the provisions of NRS
12 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440,
13 inclusive.

14 (g) Conduct which in the opinion of the Board disqualifies the
15 licensee to practice with safety to the public.

16 (h) The commission of fraud by or on behalf of the licensee
17 regarding his or her license or practice.

18 (i) Gross incompetency.

19 (j) Affliction of the licensee with any mental or physical
20 disorder which seriously impairs his or her competence as a
21 podiatric physician or podiatry hygienist.

22 (k) False representation by or on behalf of the licensee regarding
23 his or her practice.

24 (l) Unethical or unprofessional conduct.

25 (m) Failure to comply with the requirements of subsection 1 of
26 NRS 635.118.

27 (n) Willful or repeated violations of this chapter or regulations
28 adopted by the Board.

29 (o) Willful violation of the regulations adopted by the State
30 Board of Pharmacy.

31 (p) Knowingly procuring or administering a controlled
32 substance or a dangerous drug as defined in chapter 454 of NRS that
33 is not approved by the United States Food and Drug Administration,
34 unless the unapproved controlled substance or dangerous drug:

35 (1) Was procured through a retail pharmacy licensed
36 pursuant to chapter 639 of NRS;

37 (2) Was procured through a Canadian pharmacy which is
38 licensed pursuant to chapter 639 of NRS and which has been
39 recommended by the State Board of Pharmacy pursuant to
40 subsection 4 of NRS 639.2328; or

41 (3) Is marijuana being used for medical purposes in
42 accordance with chapter 453A of NRS.

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



- 1 (1) The license of the facility is suspended or revoked; or
2 (2) An act or omission occurs which results in the suspension
3 or revocation of the license pursuant to NRS 449.160.
4 ↪ This paragraph applies to an owner or other principal responsible
5 for the operation of the facility.

6 (r) Failure to obtain any training required by the Board pursuant
7 to NRS 635.116.

8 (s) Failure to comply with the provisions of NRS 453.163,
9 453.164 ~~[,] and 453.226 [, 639.23507 and 639.2391 to 639.23916,~~
10 ~~inclusive,]~~ and any regulations adopted by the State Board of
11 Pharmacy pursuant thereto.

12 (t) ~~[Fraudulent, illegal, unauthorized or otherwise inappropriate~~
13 ~~prescribing, administering or dispensing of a controlled substance~~
14 ~~listed in schedule II, III or IV.~~

15 ~~—(u)]~~ Failure to comply with the provisions of NRS 454.217 or
16 629.086.

17 **Sec. 12.** NRS 635.152 is hereby amended to read as follows:

18 635.152 1. The President of the Board or his or her designee
19 shall review and evaluate any complaint or information received
20 from the Investigation Division of the Department of Public Safety
21 or the State Board of Pharmacy, including, without limitation,
22 information provided pursuant to NRS 453.164, or from a law
23 enforcement agency, professional licensing board or any other
24 source indicating that:

25 (a) A licensee has issued a fraudulent, illegal, unauthorized or
26 otherwise inappropriate prescription for a controlled substance listed
27 in schedule II, III or IV;

28 (b) A pattern of prescriptions issued by a licensee indicates that
29 the licensee has issued prescriptions in the manner described in
30 paragraph (a); or

31 (c) A patient of a licensee has acquired, used or possessed a
32 controlled substance listed in schedule II, III or IV in a fraudulent,
33 illegal, unauthorized or otherwise inappropriate manner.

34 2. If the President of the Board or his or her designee receives
35 information described in subsection 1 concerning the licensee, the
36 President or his or her designee must notify the licensee as soon as
37 practicable after receiving the information.

38 3. A review and evaluation conducted pursuant to subsection 1
39 must include, without limitation:

40 (a) A review of relevant information contained in the database
41 of the program established pursuant to NRS 453.162;

42 (b) A requirement that the licensee who is the subject of the
43 review and evaluation attest that he or she has complied with the
44 requirements of NRS 639.23507, 639.2391, 639.23911 and
45 639.23915, as applicable; and



1 (c) A request for additional relevant information from the
2 licensee who is the subject of the review and evaluation.

3 4. If, after a review and evaluation conducted pursuant to
4 subsection 1, the President or his or her designee determines that a
5 licensee may have issued a fraudulent, illegal, unauthorized or
6 otherwise inappropriate prescription for a controlled substance listed
7 in schedule II, III or IV, the Board must proceed as if a written
8 complaint had been filed against the licensee. If, after conducting an
9 investigation and a hearing in accordance with the provisions of this
10 chapter, the Board determines that the licensee issued a fraudulent,
11 illegal, unauthorized or otherwise inappropriate prescription, the
12 Board must impose appropriate disciplinary action ~~{}~~ *in accordance*
13 *with the regulations adopted by the State Board of Pharmacy*
14 *pursuant to NRS 639.23916.*

15 5. When deemed appropriate, the President of the Board may:

16 (a) Refer information acquired during a review and evaluation
17 conducted pursuant to subsection 1 to another professional licensing
18 board, law enforcement agency or other appropriate governmental
19 entity for investigation and criminal or administrative proceedings.

20 (b) Postpone any notification, review or part of such a review
21 required by this section if he or she determines that it is necessary to
22 avoid interfering with any pending administrative or criminal
23 investigation into the suspected fraudulent, illegal, unauthorized or
24 otherwise inappropriate prescribing, dispensing or use of a
25 controlled substance.

26 ~~{6.— The Board shall adopt regulations providing for disciplinary~~
27 ~~action against a licensee for inappropriately prescribing a controlled~~
28 ~~substance listed in schedule II, III or IV or violating the provisions~~
29 ~~of NRS 639.2391 to 639.23916, inclusive, and any regulations~~
30 ~~adopted by the State Board of Pharmacy pursuant thereto. Such~~
31 ~~disciplinary action must include, without limitation, requiring the~~
32 ~~licensee to complete additional continuing education concerning~~
33 ~~prescribing controlled substances listed in schedules II, III and IV.]~~

34 **Sec. 13.** NRS 636.325 is hereby amended to read as follows:

35 636.325 1. Upon conclusion of the hearing, or waiver thereof
36 by the person against whom the charge is filed, the Board shall
37 make and announce its decision. ~~{}~~ *Except as otherwise provided*
38 *in NRS 636.338, if* the Board determines that the allegations
39 included in the charge are true, it may take any one or more of the
40 following actions:

41 (a) Publicly reprimand the licensee;

42 (b) Place the licensee on probation for a specified or unspecified
43 period;

44 (c) Suspend the licensee from practice for a specified or
45 unspecified period;



1 (d) Revoke the licensee's license; or
2 (e) Impose an administrative fine pursuant to the provisions of
3 NRS 636.420.

4 ➤ The Board may, in connection with a reprimand, probation or
5 suspension, impose such other terms or conditions as it deems
6 necessary.

7 2. If the Board determines that the allegations included in the
8 charge are false or do not warrant disciplinary action, it shall
9 dismiss the charge.

10 3. The Board shall not issue a private reprimand.

11 4. An order that imposes discipline and the findings of fact and
12 conclusions of law supporting that order are public records.

13 **Sec. 14.** NRS 636.338 is hereby amended to read as follows:

14 636.338 1. The Executive Director of the Board or his or her
15 designee shall review and evaluate any complaint or information
16 received from the Investigation Division of the Department of
17 Public Safety or the State Board of Pharmacy, including, without
18 limitation, information provided pursuant to NRS 453.164, or from
19 a law enforcement agency, professional licensing board or any other
20 source indicating that:

21 (a) A licensee has issued a fraudulent, illegal, unauthorized or
22 otherwise inappropriate prescription for a controlled substance listed
23 in schedule II, III or IV;

24 (b) A pattern of prescriptions issued by a licensee indicates that
25 the licensee has issued prescriptions in the manner described in
26 paragraph (a); or

27 (c) A patient of a licensee has acquired, used or possessed a
28 controlled substance listed in schedule II, III or IV in a fraudulent,
29 illegal, unauthorized or otherwise inappropriate manner.

30 2. If the Executive Director of the Board or his or her designee
31 receives information described in subsection 1 concerning the
32 licensee, the Executive Director or his or her designee must notify
33 the licensee as soon as practicable after receiving the information.

34 3. A review and evaluation conducted pursuant to subsection 1
35 must include, without limitation:

36 (a) A review of relevant information contained in the database
37 of the program established pursuant to NRS 453.162;

38 (b) A requirement that the licensee who is the subject of the
39 review and evaluation attest that he or she has complied with the
40 requirements of NRS 639.23507, 639.2391, 639.23911 and
41 639.23915, as applicable; and

42 (c) A request for additional relevant information from the
43 licensee who is the subject of the review and evaluation.

44 4. If, after a review and evaluation conducted pursuant to
45 subsection 1, the Executive Director or his or her designee



1 determines that a licensee may have issued a fraudulent, illegal,
2 unauthorized or otherwise inappropriate prescription for a controlled
3 substance listed in schedule II, III or IV, the Board must proceed as
4 if a written complaint had been filed against the licensee. If, after
5 conducting an investigation and a hearing in accordance with the
6 provisions of this chapter, the Board determines that the licensee
7 issued a fraudulent, illegal, unauthorized or otherwise inappropriate
8 prescription, the Board must impose appropriate disciplinary action
9 ~~in accordance with the regulations adopted by the State Board~~
10 ~~of Pharmacy pursuant to NRS 639.23916.~~

11 5. When deemed appropriate, the Executive Director of the
12 Board may:

13 (a) Refer information acquired during a review and evaluation
14 conducted pursuant to subsection 1 to another professional licensing
15 board, law enforcement agency or other appropriate governmental
16 entity for investigation and criminal or administrative proceedings.

17 (b) Postpone any notification, review or part of such a review
18 required by this section if he or she determines that it is necessary to
19 avoid interfering with any pending administrative or criminal
20 investigation into the suspected fraudulent, illegal, unauthorized or
21 otherwise inappropriate prescribing, dispensing or use of a
22 controlled substance.

23 ~~{6.—The Board shall adopt regulations providing for disciplinary~~
24 ~~action against a licensee for inappropriately prescribing a controlled~~
25 ~~substance listed in schedule II, III or IV or violating the provisions~~
26 ~~of NRS 639.2391 to 639.23916, inclusive, and any regulations~~
27 ~~adopted by the State Board of Pharmacy pursuant thereto. Such~~
28 ~~disciplinary action must include, without limitation, requiring the~~
29 ~~licensee to complete additional continuing education concerning~~
30 ~~prescribing controlled substances listed in schedules II, III and IV.]~~

31 **Sec. 15.** NRS 639.23916 is hereby amended to read as
32 follows:

33 639.23916 1. The Board ~~{may}~~ :

34 (a) *Shall adopt regulations designating the appropriate*
35 *disciplinary action to be imposed by a professional licensing board*
36 *against a practitioner who inappropriately prescribes a controlled*
37 *substance listed in schedule II, III or IV or violates the provisions*
38 *of NRS 639.23507 or 639.2391 to 639.23916, inclusive, and any*
39 *regulations adopted pursuant thereto. Such regulations must apply*
40 *equally to each type of practitioner and must, without limitation,*
41 *require the practitioner to complete additional continuing*
42 *education concerning prescribing controlled substances listed in*
43 *schedules II, III and IV.*

44 (b) *May* adopt any *other* regulations necessary or convenient
45 to enforce the provisions of NRS 639.23507 and 639.2391



1 to 639.23916, inclusive. Such regulations may impose additional
2 requirements concerning the prescription of a controlled substance
3 listed in schedule II, III or IV by a practitioner, other than a
4 veterinarian, for the treatment of pain.

5 2. A practitioner who violates any provision of NRS 639.23507
6 and 639.2391 to 639.23916, inclusive, or any regulations adopted
7 pursuant thereto is:

8 (a) Not guilty of a misdemeanor; and

9 (b) Subject to professional discipline.

10 **Sec. 16.** NRS 433.5456 is hereby amended to read as follows:

11 433.5456 “Chemical restraint” means the administration of
12 drugs for the specific and exclusive purpose of controlling an acute
13 or episodic aggressive behavior when alternative intervention
14 techniques have failed to limit or control the behavior. The term
15 does not include the administration of drugs, ~~{on a regular basis,}~~ as
16 prescribed by a physician, to treat the symptoms of mental, physical,
17 emotional or behavioral disorders and for assisting a person in
18 gaining self-control over his or her impulses.

19 **Sec. 17.** NRS 454.217 is hereby amended to read as follows:

20 454.217 1. ~~{A}~~ *Except as otherwise authorized by*
21 *subsection 2, a* person shall not inject a neuromodulator that is
22 derived from Clostridium botulinum or is biosimilar to or the
23 bioequivalent of such a neuromodulator:

24 (a) Unless the person is:

25 (1) A physician or physician assistant licensed pursuant to
26 chapter 630 of NRS;

27 (2) A dentist who has successfully completed the training
28 prescribed by the Board of Dental Examiners of Nevada pursuant to
29 NRS 631.391;

30 (3) A registered nurse or advanced practice registered nurse;

31 (4) A physician or physician assistant licensed pursuant to
32 chapter 633 of NRS; or

33 (5) A podiatric physician who has successfully completed the
34 training prescribed by the State Board of Podiatry pursuant to
35 NRS 635.200.

36 (b) Outside his or her scope of practice.

37 (c) At a location other than a medical facility, as defined in NRS
38 449.0151, or the office of a physician or physician assistant licensed
39 pursuant to chapter 630 or 633 of NRS, dentist, advanced practice
40 registered nurse or podiatric physician.

41 2. *A physician or physician assistant licensed in any state of*
42 *the United States, the District of Columbia, the Commonwealth of*
43 *Puerto Rico or any territory or insular possession subject to the*
44 *jurisdiction of the United States may inject a neuromodulator*
45 *described in subsection 1 at an educational event recognized by*



1 *the Board of Medical Examiners or the State Board of Osteopathic*
2 *Medicine only for the purpose of demonstrating the proper*
3 *technique for performing such an injection.*

4 3. A person who is authorized by ~~subsection 1~~ *this section* to
5 inject a neuromodulator described in that subsection shall not
6 delegate such injection to a person who is prohibited by ~~subsection~~
7 ~~1~~ *this section* from injecting such a neuromodulator.

8 **Sec. 18.** 1. Any regulations adopted by the Board of Medical
9 Examiners, Board of Dental Examiners of Nevada, State Board of
10 Nursing, State Board of Osteopathic Medicine, State Board of
11 Podiatry or Nevada State Board of Optometry pursuant to NRS
12 630.323, 631.364, 632.352, 633.574, 635.152 or 636.338,
13 respectively, as those sections existed on September 30, 2019, that
14 conflict with the provisions of this act are void. The Legislative
15 Counsel shall remove those regulations from the Nevada
16 Administrative Code as soon as practicable after October 1, 2019.

17 2. Any disciplinary action imposed by the Board of Medical
18 Examiners, Board of Dental Examiners of Nevada, State Board of
19 Nursing, State Board of Osteopathic Medicine, State Board of
20 Podiatry or Nevada State Board of Optometry pursuant to NRS
21 630.323, 631.364, 632.352, 633.574, 635.152 or 636.338,
22 respectively, as those sections existed on September 30, 2019, or the
23 regulations adopted pursuant thereto remains in effect as if the
24 disciplinary action was imposed in accordance with the regulations
25 adopted by the State Board of Pharmacy pursuant to NRS
26 639.23916, as amended by section 15 of this act.

