

ASSEMBLY BILL NO. 339—ASSEMBLYWOMAN WOODBURY

MARCH 20, 2017

JOINT SPONSOR: SENATOR HARDY

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to health care.
(BDR 54-729)

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 health care; authorizing the Board of Medical Examiners to take possession of the health care records of a licensee's patients under certain circumstances; requiring the Board of Medical Examiners to adopt policies and procedures for placing information on the Internet website of the Board; revising provisions relating to communications concerning certain background checks by the Board of Medical Examiners or the State Board of Osteopathic Medicine; revising provisions relating to the requirement for certain persons to maintain a permanent mailing address with the Board of Medical Examiners; revising provisions requiring certain information be reported to the Board of Medical Examiners; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law requires certain providers of health care to retain the health care
- 2 records of patients for 5 years after their receipt or production. (NRS 629.051)
- 3 **Section 1** of this bill authorizes the Board of Medical Examiners to take possession
- 4 of the health care records of a licensee's patients in the event of the licensee's
- 5 death, disability, incarceration or other incapacitation that would render the licensee
- 6 unable to continue his or her practice. **Section 1** further authorizes the Board to
- 7 provide such records to the patient or to the patient's subsequent provider of health
- 8 care. **Section 1** also requires that certain disclosures regarding such records be
- 9 provided to patients.



* A B 3 3 9 R 2 *

10 Existing law provides for the maintenance of an Internet website by the Board
11 of Medical Examiners. (NRS 630.144) **Section 3** of this bill requires the Board to
12 adopt policies and procedures for placing information on its Internet website.

13 Existing law imposes a fine on a person who is licensed under chapter 630 of
14 NRS and fails to maintain a permanent mailing address with the Board of Medical
15 Examiners. (NRS 630.254) Existing law similarly imposes a fine on an inactive
16 registrant for such a failure. (NRS 630.255) **Sections 5 and 6** of this bill authorize,
17 rather than require, the Board to impose such fines.

18 Existing law requires persons who are licensed to practice medicine by the
19 Board of Medical Examiners to make certain reports to the Board concerning
20 surgeries requiring conscious sedation, deep sedation or general anesthesia which
21 were performed by the holder of the license and the occurrence of any sentinel
22 events arising from those surgeries. The Board is required to submit the reports to
23 the Division of Public and Behavioral Health of the Department of Health and
24 Human Services. (NRS 449.447, 630.30665) **Sections 8.5 and 10** of this bill revise
25 these reporting requirements.

26 Existing law ratifies the Interstate Medical Licensure Compact. If a physician
27 or osteopathic physician is licensed in this State, the Compact provides for
28 reciprocal licensure for that physician or osteopathic physician in all other member
29 states of the Compact. The Compact regulates the licensure and discipline of
30 physicians and osteopathic physicians holding reciprocal licenses through the
31 Compact. (NRS 629A.100) **Sections 3.5 and 8.7** of this bill provide that any
32 communication between the Board of Medical Examiners or the State Board of
33 Osteopathic Medicine and the Interstate Medical Licensure Compact Commission
34 relating to verification of a physician's eligibility under the Compact must not
35 include any information received by either Board in a report from the Federal
36 Bureau of Investigation relating to a state and federal criminal records check.

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. If a licensee becomes incapable of keeping his or her office*
4 *open because of death, disability, incarceration or any other*
5 *incapacitation, the Board may take possession of the health care*
6 *records kept by the licensee of his or her patients pursuant to NRS*
7 *629.051 to:*

8 *(a) Make a patient's health care records available to the*
9 *patient either directly or through a third-party vendor; or*

10 *(b) Forward a patient's health care records to the patient's*
11 *subsequent provider of health care.*

12 *2. A licensee shall post, in a conspicuous place in each*
13 *location at which the licensee provides health care services, a sign*
14 *which discloses to patients that their health care records may be*
15 *accessed by the Board pursuant to subsection 1.*

16 *3. When a licensee provides health care services for a patient*
17 *for the first time, the licensee shall deliver to the patient a written*
18 *statement which discloses to the patient that the health care*



1 *records of the patient may be accessed by the Board pursuant to*
2 *subsection 1.*

3 *4. The Board shall adopt:*

4 *(a) Regulations prescribing the form, size, contents and*
5 *placement of the sign and written statement required pursuant to*
6 *this section; and*

7 *(b) Any other regulations necessary to carry out the provisions*
8 *of this section.*

9 *5. As used in this section, "health care records" has the*
10 *meaning ascribed to it in NRS 629.021.*

11 **Sec. 2.** (Deleted by amendment.)

12 **Sec. 3.** NRS 630.144 is hereby amended to read as follows:

13 630.144 1. The Board shall maintain a website on the
14 Internet or its successor.

15 2. ~~Except as otherwise provided in this section, a member or~~
16 ~~employee of the Board shall not place any information on the~~
17 ~~Internet website maintained by the Board without the approval of~~
18 ~~the Executive Director and the Board. A member or employee of the~~
19 ~~Board shall submit any information proposed to be placed on the~~
20 ~~Internet website to the Executive Director for approval. Upon~~
21 ~~approving the proposal, the Executive Director shall present the~~
22 ~~proposal to the Board for approval at its next regularly scheduled~~
23 ~~meeting.] The Board shall adopt policies and procedures for~~
24 ~~placing information on its Internet website.~~

25 3. The Board shall place on its Internet website : ~~without~~
26 ~~having to approve the placement at a meeting:]~~

27 (a) Each application form for the issuance or renewal of a
28 license issued by the Board pursuant to this chapter.

29 (b) A list of questions that are frequently asked concerning the
30 processes of the Board and the answers to those questions.

31 (c) An alphabetical list, by last name, of each ~~physician]~~
32 *licensee* and a brief description of each disciplinary action, if any,
33 taken against the ~~physician.] licensee~~, in this State and elsewhere,
34 which relates to ~~the] his or her~~ practice ~~of medicine]~~ and which is
35 noted in the records of the Board. The Board shall include, as part of
36 the list on the Internet website, the name of each ~~physician]~~
37 *licensee* whose license has been revoked by the Board. The Board
38 shall make the list on the Internet website easily accessible and user
39 friendly for the public.

40 (d) All financial reports received by the Board.

41 (e) All financial reports prepared by the Board.

42 (f) Any other information that the Board is required to place on
43 its Internet website pursuant to any other provision of law.



1 **Sec. 3.5.** NRS 630.167 is hereby amended to read as follows:
2 630.167 **1.** In addition to any other requirements set forth in
3 this chapter, each applicant for a license to practice medicine,
4 *including, without limitation, an expedited license pursuant to*
5 *NRS 630.1606 or 630.1607 or chapter 629A of NRS, and each*
6 *applicant for a license* to practice as a perfusionist, to practice as a
7 physician assistant or to practice respiratory care shall submit to the
8 Board a complete set of fingerprints and written permission
9 authorizing the Board to forward the fingerprints to the Central
10 Repository for Nevada Records of Criminal History for submission
11 to the Federal Bureau of Investigation for its report. Any fees or
12 costs charged by the Board for this service pursuant to NRS 630.268
13 are not refundable.

14 **2.** *Any communication between the Board and the Interstate*
15 *Medical Licensure Compact Commission created by NRS*
16 *629A.100 relating to verification of a physician's eligibility for*
17 *expedited licensure pursuant to that section must not include any*
18 *information received in a report from the Federal Bureau of*
19 *Investigation relating to a state and federal criminal records check*
20 *performed for the purposes of an application for an expedited*
21 *license issued pursuant to NRS 629A.100.*

22 **Sec. 4.** (Deleted by amendment.)

23 **Sec. 5.** NRS 630.254 is hereby amended to read as follows:

24 630.254 **1.** Each licensee shall maintain a permanent mailing
25 address with the Board to which all communications from the Board
26 to the licensee must be sent. A licensee who changes his or her
27 permanent mailing address shall notify the Board in writing of the
28 new permanent mailing address within 30 days after the change. If a
29 licensee fails to notify the Board in writing of a change in his or her
30 permanent mailing address within 30 days after the change, the
31 Board:

32 (a) ~~Shall~~ **May** impose upon the licensee a fine not to exceed
33 \$250; and

34 (b) May initiate disciplinary action against the licensee as
35 provided pursuant to paragraph (j) of subsection 1 of NRS 630.306.

36 **2.** Any licensee who changes the location of his or her office in
37 this State shall notify the Board in writing of the change before
38 practicing at the new location.

39 **3.** Any licensee who closes his or her office in this State shall:

40 (a) Notify the Board in writing of this occurrence within 14 days
41 after the closure; and

42 (b) For a period of 5 years thereafter, unless a longer period of
43 retention is provided by federal law, keep the Board apprised in
44 writing of the location of the medical records of the licensee's
45 patients.



1 4. In addition to the requirements of subsection 1, any licensee
2 who performs any of the acts described in subsection 3 of NRS
3 630.020 from outside this State or the United States shall maintain
4 an electronic mail address with the Board to which all
5 communications from the Board to the licensee may be sent.

6 **Sec. 6.** NRS 630.255 is hereby amended to read as follows:

7 630.255 1. Any licensee who changes the location of his or
8 her practice of medicine from this State to another state or country,
9 has never engaged in the practice of medicine in this State after
10 licensure or has ceased to engage in the practice of medicine in this
11 State for 12 consecutive months may be placed on inactive status by
12 order of the Board.

13 2. Each inactive ~~registrant~~ *licensee* shall maintain a
14 permanent mailing address with the Board to which all
15 communications from the Board to the ~~registrant~~ *licensee* must be
16 sent. An inactive ~~registrant~~ *licensee* who changes his or her
17 permanent mailing address shall notify the Board in writing of the
18 new permanent mailing address within 30 days after the change. If
19 an inactive ~~registrant~~ *licensee* fails to notify the Board in writing
20 of a change in his or her permanent mailing address within 30 days
21 after the change, the Board ~~shall~~ *may* impose upon the ~~registrant~~
22 *licensee* a fine not to exceed \$250.

23 3. In addition to the requirements of subsection 2, any licensee
24 who changes the location of his or her practice of medicine from
25 this State to another state or country ~~and any inactive registrant~~
26 shall maintain an electronic mail address with the Board to which all
27 communications from the Board to him or her may be sent.

28 4. Before resuming the practice of medicine in this State, the
29 inactive ~~registrant~~ *licensee* must:

30 (a) Notify the Board in writing of his or her intent to resume the
31 practice of medicine in this State;

32 (b) File an affidavit with the Board describing the activities of
33 the ~~registrant~~ *licensee* during the period of inactive status;

34 (c) Complete the form for registration for active status;

35 (d) Pay the applicable fee for biennial registration; and

36 (e) Satisfy the Board of his or her competence to practice
37 medicine.

38 5. If the Board determines that the conduct or competence of
39 the ~~registrant~~ *licensee* during the period of inactive status would
40 have warranted denial of an application for a license to practice
41 medicine in this State, the Board may refuse to place the ~~registrant~~
42 *licensee* on active status.

43 **Sec. 7.** NRS 630.258 is hereby amended to read as follows:

44 630.258 1. A physician who is retired from active practice
45 and who:



1 (a) Wishes to donate his or her expertise for the medical care
2 and treatment of persons in this State who are indigent, uninsured or
3 unable to afford health care; or

4 (b) Wishes to provide services for any disaster relief operations
5 conducted by a governmental entity or nonprofit organization,
6 → may obtain a special volunteer medical license by submitting an
7 application to the Board pursuant to this section.

8 2. An application for a special volunteer medical license must
9 be on a form provided by the Board and must include:

10 (a) Documentation of the history of medical practice of the
11 physician;

12 (b) Proof that the physician previously has been issued an
13 unrestricted license to practice medicine in any state of the United
14 States and that the physician has never been the subject of
15 disciplinary action by a medical board in any jurisdiction;

16 (c) Proof that the physician satisfies the requirements for
17 licensure set forth in NRS 630.160 or the requirements for licensure
18 by endorsement set forth in NRS 630.1605, 630.1606 or 630.1607;

19 (d) Acknowledgment that the practice of the physician under the
20 special volunteer medical license will be exclusively devoted to
21 providing medical care:

22 (1) To persons in this State who are indigent, uninsured or
23 unable to afford health care; or

24 (2) As part of any disaster relief operations conducted by a
25 governmental entity or nonprofit organization; and

26 (e) Acknowledgment that the physician will not receive any
27 payment or compensation, either direct or indirect, or have the
28 expectation of any payment or compensation, for providing medical
29 care under the special volunteer medical license, except for payment
30 by a medical facility at which the physician provides volunteer
31 medical services of the expenses of the physician for necessary
32 travel, continuing education, malpractice insurance or fees of the
33 State Board of Pharmacy.

34 3. If the Board finds that the application of a physician satisfies
35 the requirements of subsection 2 and that the retired physician is
36 competent to practice medicine, the Board must issue a special
37 volunteer medical license to the physician.

38 4. The initial special volunteer medical license issued pursuant
39 to this section expires 1 year after the date of issuance. The license
40 may be renewed pursuant to this section, and any license that is
41 renewed expires 2 years after the date of issuance **† of the renewed**
42 **license.**

43 5. The Board shall not charge a fee for:

44 (a) The review of an application for a special volunteer medical
45 license; or



1 (b) The issuance or renewal of a special volunteer medical
2 license pursuant to this section.

3 6. A physician who is issued a special volunteer medical
4 license pursuant to this section and who accepts the privilege of
5 practicing medicine in this State pursuant to the provisions of the
6 special volunteer medical license is subject to all the provisions
7 governing disciplinary action set forth in this chapter.

8 7. A physician who is issued a special volunteer medical
9 license pursuant to this section shall comply with the requirements
10 for continuing education adopted by the Board.

11 **Sec. 8.** (Deleted by amendment.)

12 **Sec. 8.5.** NRS 630.30665 is hereby amended to read as
13 follows:

14 630.30665 1. The Board shall require each holder of a license
15 to practice medicine to submit to the Board, on a form provided by
16 the Board, a report stating the number and type of surgeries
17 requiring conscious sedation, deep sedation or general anesthesia
18 performed by the holder of the license at his or her office or any
19 other facility, excluding any surgical care performed:

20 (a) At a medical facility as that term is defined in NRS
21 449.0151; or

22 (b) Outside of this State.

23 ~~2. In addition to the report required pursuant to subsection 1,~~
24 ~~the Board shall require each holder of a license to practice medicine~~
25 ~~to submit a report to the Board concerning the occurrence of any~~
26 ~~sentinel event arising from any surgery described in subsection 1.~~
27 ~~The report must be submitted in the manner prescribed by the Board~~
28 ~~which must be substantially similar to the manner prescribed by the~~
29 ~~State Board of Health for reporting information pursuant to~~
30 ~~NRS 439.835.~~

31 ~~3. Each holder of a license to practice medicine shall submit~~
32 ~~the reports required pursuant to subsections 1 and 2:~~

33 ~~(a) At the time the holder of a license renews his or her license;~~
34 ~~and~~

35 ~~(b) Whether or not the holder of the license performed any~~
36 ~~surgery described in subsection 1. Failure to submit a report or~~
37 ~~knowingly or willfully filing false information in a report constitutes~~
38 ~~grounds for initiating disciplinary action pursuant to paragraph (i) of~~
39 ~~subsection 1 of NRS 630.306.~~

40 ~~4. In addition to the reports required pursuant to subsections 1~~
41 ~~and 2, the~~ **The** Board shall require each holder of a license to
42 practice medicine to submit a report to the Board concerning the
43 occurrence of any sentinel event arising from any surgery described
44 in subsection 1 within 14 days after the occurrence of the sentinel



1 event. The report must be submitted in the manner prescribed by the
2 Board.

3 ~~15.1~~ 3. The Board shall:

4 (a) Collect and maintain reports received pursuant to subsections
5 1 ~~1.1~~ and 2 ~~1.2~~; and

6 (b) Ensure that the reports, and any additional documents
7 created from the reports, are protected adequately from fire, theft,
8 loss, destruction and other hazards, and from unauthorized access .
9 ~~1.3~~ and

10 ~~—(c) Submit to the Division of Public and Behavioral Health a~~
11 ~~copy of the report submitted pursuant to subsection 1. The Division~~
12 ~~shall maintain the confidentiality of such reports in accordance with~~
13 ~~subsection 6.~~

14 ~~6.1~~ 4. Except as otherwise provided in NRS 239.0115, a report
15 received pursuant to subsection 1 ~~1.1~~ or 2 ~~1.2~~ is confidential, not
16 subject to subpoena or discovery, and not subject to inspection by
17 the general public.

18 ~~17.1~~ 5. The provisions of this section do not apply to surgical
19 care requiring only the administration of oral medication to a patient
20 to relieve the patient's anxiety or pain, if the medication is not given
21 in a dosage that is sufficient to induce in a patient a controlled state
22 of depressed consciousness or unconsciousness similar to general
23 anesthesia, deep sedation or conscious sedation.

24 ~~18.1~~ 6. In addition to any other remedy or penalty, if a holder
25 of a license to practice medicine fails to submit a report or
26 knowingly or willfully files false information in a report submitted
27 pursuant to this section, the Board may, after providing the holder of
28 a license to practice medicine with notice and opportunity for a
29 hearing, impose against the holder of a license to practice medicine
30 an administrative penalty for each such violation. The Board shall
31 establish by regulation a sliding scale based on the severity of the
32 violation to determine the amount of the administrative penalty to be
33 imposed against the holder of the license pursuant to this subsection.
34 The regulations must include standards for determining the severity
35 of the violation and may provide for a more severe penalty for
36 multiple violations.

37 ~~19.1~~ 7. As used in this section:

38 (a) "Conscious sedation" has the meaning ascribed to it in
39 NRS 449.436.

40 (b) "Deep sedation" has the meaning ascribed to it in
41 NRS 449.437.

42 (c) "General anesthesia" has the meaning ascribed to it in
43 NRS 449.438.

44 (d) "Sentinel event" has the meaning ascribed to it in
45 NRS 439.830.



1 **Sec. 8.7.** NRS 633.309 is hereby amended to read as follows:

2 633.309 **1.** In addition to any other requirements set forth in
3 this chapter, each applicant for a license, *including, without*
4 *limitation, an expedited license pursuant to NRS 633.399 or*
5 *633.400 or chapter 629A of NRS,* except a temporary or special
6 license, must submit to the Board a complete set of fingerprints and
7 written permission authorizing the Board to forward the fingerprints
8 to the Central Repository for Nevada Records of Criminal History
9 for submission to the Federal Bureau of Investigation for its report.

10 **2.** *Any communication between the Board and the Interstate*
11 *Medical Licensure Compact Commission created by NRS*
12 *629A.100 relating to verification of a physician's eligibility for*
13 *expedited licensure pursuant to that section must not include any*
14 *information received in a report from the Federal Bureau of*
15 *Investigation relating to a state and federal criminal records check*
16 *performed for the purposes of an application for an expedited*
17 *license issued pursuant to NRS 629A.100.*

18 **Sec. 9.** (Deleted by amendment.)

19 **Sec. 10.** NRS 449.447 is hereby amended to read as follows:

20 449.447 **1.** If an office of a physician or a facility that
21 provides health care, other than a medical facility, violates the
22 provisions of NRS 449.435 to 449.448, inclusive, or the regulations
23 adopted pursuant thereto, or fails to correct a deficiency indicated in
24 a report pursuant to NRS 449.446, the Division, in accordance with
25 the regulations adopted pursuant to NRS 449.448, may take any of
26 the following actions:

27 (a) Decline to issue or renew a permit;

28 (b) Suspend or revoke a permit; or

29 (c) Impose an administrative penalty of not more than \$1,000
30 per day for each violation, together with interest thereon at a rate not
31 to exceed 10 percent per annum.

32 **2.** The Division may review a report submitted pursuant to
33 NRS ~~630.30665 or~~ 633.524 to determine whether an office of a
34 physician or a facility is in violation of the provisions of
35 NRS 449.435 to 449.448, inclusive, or the regulations adopted
36 pursuant thereto. If the Division determines that such a violation has
37 occurred, the Division shall immediately notify the ~~appropriate~~
38 ~~professional licensing board of the physician.~~ *State Board of*
39 *Osteopathic Medicine.*

40 **3.** If a surgical center for ambulatory patients violates the
41 provisions of NRS 449.435 to 449.448, inclusive, or the regulations
42 adopted pursuant thereto, or fails to correct a deficiency indicated in
43 a report pursuant to NRS 449.446, the Division may impose
44 administrative sanctions pursuant to NRS 449.163.



- 1 **Sec. 11.** The provisions of subsection 1 of NRS 218D.380 do
2 not apply to any provision of this act which adds or revises a
3 requirement to submit a report to the Legislature.
4 **Sec. 12.** (Deleted by amendment.)
5 **Sec. 13.** This act becomes effective on July 1, 2017.

