

---

---

SENATE BILL NO. 408—SENATORS PARKS, SPEARMAN, SEGERBLOM,  
CANCELA; ATKINSON, CANNIZZARO, FORD, RATTI AND  
WOODHOUSE

MARCH 20, 2017

---

JOINT SPONSORS: ASSEMBLYMEN ARAUJO AND JOINER

---

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Establishes conditions for the performance of certain  
surgical procedures. (BDR 54-615)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

---

---

AN ACT relating to health care; establishing conditions for the  
performance on a child of any surgical procedure to  
assign anatomical sex; providing for disciplinary action  
against certain providers of health care for any violation  
of those conditions; and providing other matters properly  
relating thereto.

**Legislative Counsel’s Digest:**

1     **Section 1** of this bill generally prohibits a provider of health care from  
2 performing or assisting in the performance of any surgical procedure to assign the  
3 sex of a child unless the provider or another qualified professional has first  
4 conducted an assessment of the child to ensure that the child understands the nature  
5 and risks of the procedure and assents to the procedure. An exception is provided if  
6 the provider of health care determines that delaying the procedure is likely to  
7 endanger the life of the child. If the child has not been emancipated, **section 1**  
8 further provides that compliance with the requirements of the section does not  
9 relieve the provider of the duty to obtain the consent of the parents or guardians of  
10 the child. **Sections 2-4** of this bill authorize an occupational licensing board to take  
11 disciplinary action against a physician, physician assistant or nurse who violates the  
12 provisions of **section 1**. The Division of Public and Behavioral Health of the  
13 Department of Health and Human Services is authorized under existing law to deny  
14 an application for a license as a medical facility or suspend or revoke the license of  
15 a medical facility for aiding, abetting or permitting a provider of health care to  
16 violate those provisions. (NRS 449.160)



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

1       **Section 1.** Chapter 629 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3       1. *Except as otherwise provided in subsection 2, a provider of*  
4 *health care shall not perform or assist in the performance of any*  
5 *surgical procedure to assign anatomical sex, including, without*  
6 *limitation, surgery to relocate the urethral meatus, of a child*  
7 *under 18 years of age unless the provider of health care or*  
8 *another qualified professional has first conducted an assessment*  
9 *of the child and confirmed that the child:*

10       (a) *Is capable of assenting to the procedure;*

11       (b) *Understands the nature and risks of the procedure and any*  
12 *available alternatives to the procedure; and*

13       (c) *Assents to the procedure.*

14       2. *The assessment and assent of a child to a procedure*  
15 *described in subsection 1 are not required if the provider of health*  
16 *care determines that delaying the procedure is likely to endanger*  
17 *the life of the child.*

18       3. *If a child has not been emancipated, nothing contained in*  
19 *this section relieves a provider of health care of the duty to obtain*  
20 *the informed consent of the parents or guardians of the child to a*  
21 *procedure described in subsection 1.*

22       **Sec. 2.** NRS 630.306 is hereby amended to read as follows:

23       630.306 1. The following acts, among others, constitute  
24 grounds for initiating disciplinary action or denying licensure:

25       (a) Inability to practice medicine with reasonable skill and safety  
26 because of illness, a mental or physical condition or the use of  
27 alcohol, drugs, narcotics or any other substance.

28       (b) Engaging in any conduct:

29           (1) Which is intended to deceive;

30           (2) Which the Board has determined is a violation of the  
31 standards of practice established by regulation of the Board; or

32           (3) Which is in violation of a regulation adopted by the State  
33 Board of Pharmacy.

34       (c) Administering, dispensing or prescribing any controlled  
35 substance, or any dangerous drug as defined in chapter 454 of NRS,  
36 to or for himself or herself or to others except as authorized by law.

37       (d) Performing, assisting or advising the injection of any  
38 substance containing liquid silicone into the human body, except for  
39 the use of silicone oil to repair a retinal detachment.

40       (e) Practicing or offering to practice beyond the scope permitted  
41 by law or performing services which the licensee knows or has



1 reason to know that he or she is not competent to perform or which  
2 are beyond the scope of his or her training.

3 (f) Performing, without first obtaining the informed consent of  
4 the patient or the patient's family, any procedure or prescribing any  
5 therapy which by the current standards of the practice of medicine is  
6 experimental.

7 (g) Continual failure to exercise the skill or diligence or use the  
8 methods ordinarily exercised under the same circumstances by  
9 physicians in good standing practicing in the same specialty or field.

10 (h) Habitual intoxication from alcohol or dependency on  
11 controlled substances.

12 (i) Making or filing a report which the licensee or applicant  
13 knows to be false or failing to file a record or report as required by  
14 law or regulation.

15 (j) Failing to comply with the requirements of NRS 630.254.

16 (k) Failure by a licensee or applicant to report in writing, within  
17 30 days, any disciplinary action taken against the licensee or  
18 applicant by another state, the Federal Government or a foreign  
19 country, including, without limitation, the revocation, suspension or  
20 surrender of a license to practice medicine in another jurisdiction.

21 (l) Failure by a licensee or applicant to report in writing, within  
22 30 days, any criminal action taken or conviction obtained against the  
23 licensee or applicant, other than a minor traffic violation, in this  
24 State or any other state or by the Federal Government, a branch of  
25 the Armed Forces of the United States or any local or federal  
26 jurisdiction of a foreign country.

27 (m) Failure to be found competent to practice medicine as a  
28 result of an examination to determine medical competency pursuant  
29 to NRS 630.318.

30 (n) Operation of a medical facility at any time during which:

31 (1) The license of the facility is suspended or revoked; or

32 (2) An act or omission occurs which results in the suspension  
33 or revocation of the license pursuant to NRS 449.160.

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

36 (o) Failure to comply with the requirements of NRS 630.373.

37 (p) Engaging in any act that is unsafe or unprofessional conduct  
38 in accordance with regulations adopted by the Board.

39 (q) Knowingly or willfully procuring or administering a  
40 controlled substance or a dangerous drug as defined in chapter 454  
41 of NRS that is not approved by the United States Food and Drug  
42 Administration, unless the unapproved controlled substance or  
43 dangerous drug:

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



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

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

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

9 (r) Failure to supervise adequately a medical assistant pursuant  
10 to the regulations of the Board.

11 (s) Failure to comply with the provisions of NRS 630.3745.

12 (t) Failure to obtain any training required by the Board pursuant  
13 to NRS 630.2535.

14 ***(u) Engaging in any act prohibited by section 1 of this act.***

15 2. As used in this section, “investigational drug or biological  
16 product” has the meaning ascribed to it in NRS 454.351.

17 **Sec. 3.** NRS 632.347 is hereby amended to read as follows:

18 632.347 1. The Board may deny, revoke or suspend any  
19 license or certificate applied for or issued pursuant to this chapter, or  
20 take other disciplinary action against a licensee or holder of a  
21 certificate, upon determining that the licensee or certificate holder:

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

24 (b) Is guilty of any offense:

25 (1) Involving moral turpitude; or

26 (2) Related to the qualifications, functions or duties of a  
27 licensee or holder of a certificate,

28 ➔ in which case the record of conviction is conclusive evidence  
29 thereof.

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

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

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

40 (f) Is a person with mental incompetence.

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

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



- 1 (2) Impersonating any applicant or acting as proxy for an  
2 applicant in any examination required pursuant to this chapter for  
3 the issuance of a license or certificate.
- 4 (3) Impersonating another licensed practitioner or holder of a  
5 certificate.
- 6 (4) Permitting or allowing another person to use his or her  
7 license or certificate to practice as a licensed practical nurse,  
8 registered nurse, nursing assistant or medication aide - certified.
- 9 (5) Repeated malpractice, which may be evidenced by claims  
10 of malpractice settled against the licensee or certificate holder.
- 11 (6) Physical, verbal or psychological abuse of a patient.
- 12 (7) Conviction for the use or unlawful possession of a  
13 controlled substance or dangerous drug as defined in chapter 454 of  
14 NRS.
- 15 (h) Has willfully or repeatedly violated the provisions of this  
16 chapter. The voluntary surrender of a license or certificate issued  
17 pursuant to this chapter is prima facie evidence that the licensee or  
18 certificate holder has committed or expects to commit a violation of  
19 this chapter.
- 20 (i) Is guilty of aiding or abetting any person in a violation of this  
21 chapter.
- 22 (j) Has falsified an entry on a patient's medical chart concerning  
23 a controlled substance.
- 24 (k) Has falsified information which was given to a physician,  
25 pharmacist, podiatric physician or dentist to obtain a controlled  
26 substance.
- 27 (l) Has knowingly procured or administered a controlled  
28 substance or a dangerous drug as defined in chapter 454 of NRS that  
29 is not approved by the United States Food and Drug Administration,  
30 unless the unapproved controlled substance or dangerous drug:
- 31 (1) Was procured through a retail pharmacy licensed  
32 pursuant to chapter 639 of NRS;
- 33 (2) Was procured through a Canadian pharmacy which is  
34 licensed pursuant to chapter 639 of NRS and which has been  
35 recommended by the State Board of Pharmacy pursuant to  
36 subsection 4 of NRS 639.2328;
- 37 (3) Is marijuana being used for medical purposes in  
38 accordance with chapter 453A of NRS; or
- 39 (4) Is an investigational drug or biological product prescribed  
40 to a patient pursuant to NRS 630.3735 or 633.6945.
- 41 (m) Has been disciplined in another state in connection with a  
42 license to practice nursing or a certificate to practice as a nursing  
43 assistant or medication aide - certified, or has committed an act in  
44 another state which would constitute a violation of this chapter.



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

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

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

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

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

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

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

14 (r) Is an advanced practice registered nurse who has failed to  
15 comply with the provisions of NRS 453.163 or 453.164.

16 ***(s) Has engaged in any act prohibited by section 1 of this act.***

17 2. For the purposes of this section, a plea or verdict of guilty or  
18 guilty but mentally ill or a plea of nolo contendere constitutes a  
19 conviction of an offense. The Board may take disciplinary action  
20 pending the appeal of a conviction.

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

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

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

27 633.511 1. The grounds for initiating disciplinary action  
28 pursuant to this chapter are:

29 (a) Unprofessional conduct.

30 (b) Conviction of:

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

34 (2) A felony relating to the practice of osteopathic medicine  
35 or practice as a physician assistant;

36 (3) A violation of any of the provisions of NRS 616D.200,  
37 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

38 (4) Murder, voluntary manslaughter or mayhem;

39 (5) Any felony involving the use of a firearm or other deadly  
40 weapon;

41 (6) Assault with intent to kill or to commit sexual assault or  
42 mayhem;

43 (7) Sexual assault, statutory sexual seduction, incest,  
44 lewdness, indecent exposure or any other sexually related crime;



- 1 (8) Abuse or neglect of a child or contributory delinquency;  
2 or  
3 (9) Any offense involving moral turpitude.  
4 (c) The suspension of a license to practice osteopathic medicine  
5 or to practice as a physician assistant by any other jurisdiction.  
6 (d) Malpractice or gross malpractice, which may be evidenced  
7 by a claim of malpractice settled against a licensee.  
8 (e) Professional incompetence.  
9 (f) Failure to comply with the requirements of NRS 633.527.  
10 (g) Failure to comply with the requirements of subsection 3 of  
11 NRS 633.471.  
12 (h) Failure to comply with the provisions of NRS 633.694.  
13 (i) Operation of a medical facility, as defined in NRS 449.0151,  
14 at any time during which:  
15 (1) The license of the facility is suspended or revoked; or  
16 (2) An act or omission occurs which results in the suspension  
17 or revocation of the license pursuant to NRS 449.160.  
18 ➤ This paragraph applies to an owner or other principal responsible  
19 for the operation of the facility.  
20 (j) Failure to comply with the provisions of subsection 2 of  
21 NRS 633.322.  
22 (k) Signing a blank prescription form.  
23 (l) Knowingly or willfully procuring or administering a  
24 controlled substance or a dangerous drug as defined in chapter 454  
25 of NRS that is not approved by the United States Food and Drug  
26 Administration, unless the unapproved controlled substance or  
27 dangerous drug:  
28 (1) Was procured through a retail pharmacy licensed  
29 pursuant to chapter 639 of NRS;  
30 (2) Was procured through a Canadian pharmacy which is  
31 licensed pursuant to chapter 639 of NRS and which has been  
32 recommended by the State Board of Pharmacy pursuant to  
33 subsection 4 of NRS 639.2328;  
34 (3) Is marijuana being used for medical purposes in  
35 accordance with chapter 453A of NRS; or  
36 (4) Is an investigational drug or biological product prescribed  
37 to a patient pursuant to NRS 630.3735 or 633.6945.  
38 (m) Attempting, directly or indirectly, by intimidation, coercion  
39 or deception, to obtain or retain a patient or to discourage the use of  
40 a second opinion.  
41 (n) Terminating the medical care of a patient without adequate  
42 notice or without making other arrangements for the continued care  
43 of the patient.  
44 (o) In addition to the provisions of subsection 3 of NRS  
45 633.524, making or filing a report which the licensee knows to be



1 false, failing to file a record or report that is required by law or  
2 knowingly or willfully obstructing or inducing another to obstruct  
3 the making or filing of such a record or report.

4 (p) Failure to report any person the licensee knows, or has  
5 reason to know, is in violation of the provisions of this chapter or  
6 the regulations of the Board within 30 days after the date the  
7 licensee knows or has reason to know of the violation.

8 (q) Failure by a licensee or applicant to report in writing, within  
9 30 days, any criminal action taken or conviction obtained against the  
10 licensee or applicant, other than a minor traffic violation, in this  
11 State or any other state or by the Federal Government, a branch of  
12 the Armed Forces of the United States or any local or federal  
13 jurisdiction of a foreign country.

14 (r) Engaging in any act that is unsafe in accordance with  
15 regulations adopted by the Board.

16 (s) Failure to comply with the provisions of NRS 629.515.

17 (t) Failure to supervise adequately a medical assistant pursuant  
18 to the regulations of the Board.

19 (u) Failure to obtain any training required by the Board pursuant  
20 to NRS 633.473.

21 (v) Failure to comply with the provisions of NRS 633.6955.

22 (w) Failure to comply with the provisions of NRS 453.163 or  
23 453.164.

24 *(x) Engaging in any act prohibited by section 1 of this act.*

25 2. As used in this section, "investigational drug or biological  
26 product" has the meaning ascribed to it in NRS 454.351.

27 **Sec. 5.** This act becomes effective on July 1, 2017.

