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FIRST REPRINT

S.B. 211

SENATE BILL NO. 211—SENATORS D. HARRIS, HARDY;
LANGE, OHRENSCHALL, SCHEIBLE AND SPEARMAN

MARCH 11, 2021

Referred to Committee on Health and Human Services

SUMMARY—Establishes requirements relating to testing for sexually transmitted diseases. (BDR 40-563)

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 public health; requiring certain providers of emergency medical services in a hospital or primary care to consult with certain patients as to whether they wish to be tested for sexually transmitted diseases; requiring such a provider to test a patient who wishes to be tested or assist the patient in obtaining a test where practicable and medically indicated; requiring a hospital to ensure the performance of such consultation and testing under certain circumstances; authorizing the imposition of discipline against a hospital or provider for certain violations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law establishes requirements concerning the control, prevention and
2 treatment of the human immunodeficiency virus and other sexually transmitted
3 diseases. (NRS 441A.240-441A.336) **Section 1** of this bill requires, with certain
4 exceptions, a physician, physician assistant, advanced practice registered nurse or
5 midwife who provides or supervises the provision of emergency medical services in
6 a hospital or primary care to a patient who is at least 15 years of age to: (1) consult
7 with the patient to ascertain whether he or she wishes to be tested or assisted with
8 obtaining testing for sexually transmitted diseases and to determine which tests, if
9 any, are medically indicated; and (2) to the extent practicable and that testing is
10 medically indicated, test a patient who wishes to be tested for sexually transmitted
11 diseases or help such a patient obtain a test. **Section 1** similarly requires a hospital
12 that provides emergency medical service or primary care to a patient who is at least
13 15 years of age to ensure such consultation and the provision of such testing or
14 assistance. A physician, physician assistant, advanced practice registered nurse,



15 midwife or hospital is not required to comply with those requirements if the patient
16 is being treated for a life-threatening emergency, has recently been offered or
17 undergone such a test or lacks the capacity to consent to testing. **Sections 1-6** of
18 this bill provide that a hospital, physician, physician assistant, advanced practice
19 registered nurse or midwife that fails to comply with the requirements of **section 1**
20 is not subject to a criminal penalty or an administrative fine imposed by the State
21 Board of Health, but is subject to disciplinary action where applicable.

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

1 **Section 1.** Chapter 441A of NRS is hereby amended by
2 adding thereto a new section to read as follows:

3 *1. Except as otherwise provided in subsection 3, a physician,*
4 *physician assistant, advanced practice registered nurse or midwife*
5 *who provides or supervises the provision of emergency medical*
6 *services in a hospital or primary care to a patient who is 15 years*
7 *of age or older shall, in accordance with the regulations adopted*
8 *pursuant to subsection 4:*

9 *(a) Consult with the patient to ascertain whether he or she*
10 *wishes to be tested for sexually transmitted diseases, including,*
11 *without limitation, the human immunodeficiency virus, and to*
12 *determine which tests, if any, are medically indicated for the*
13 *patient; and*

14 *(b) If the patient wishes to be tested, conduct any test which is*
15 *medically indicated for the patient or assist the patient with*
16 *obtaining any such test, to the extent practicable for the physician,*
17 *physician assistant, advance practice registered nurse or midwife.*

18 *2. Except as otherwise provided in subsection 3, a hospital*
19 *that provides emergency medical services or primary care to a*
20 *patient who is 15 years of age or older shall, in accordance with*
21 *the regulations adopted pursuant to subsection 4:*

22 *(a) Ensure that the patient is consulted to ascertain whether he*
23 *or she wishes to be tested for sexually transmitted diseases,*
24 *including, without limitation, the human immunodeficiency virus,*
25 *and to determine which tests, if any, are medically indicated for*
26 *the patient; and*

27 *(b) If the patient wishes to be tested, ensure that any test which*
28 *is medically indicated for the patient is conducted or that the*
29 *patient is assisted with obtaining any such test, to the extent*
30 *practicable for the hospital.*

31 *3. A physician, physician assistant, advanced practice*
32 *registered nurse, midwife or hospital is not required to comply*
33 *with the requirements of subsection 1 or 2 if the physician,*
34 *physician assistant, advanced practice registered nurse or midwife*



1 *or a provider of health care who provides emergency medical*
2 *services or primary care to the patient at the hospital, as*
3 *applicable, reasonably believes that the patient:*

4 (a) *Is being treated for a life-threatening emergency;*

5 (b) *Has recently been offered or has been the subject of a test*
6 *for the human immunodeficiency virus or other sexually*
7 *transmitted diseases; or*

8 (c) *Lacks capacity to consent to such testing.*

9 4. *The Board shall adopt regulations to ensure that:*

10 (a) *Any test which is administered for a patient or for which a*
11 *patient is assisted in obtaining pursuant to this section is medically*
12 *indicated for that patient; and*

13 (b) *Communications concerning testing pursuant to this*
14 *section are made in a culturally competent manner and, to the*
15 *extent practicable, in a language that is easily understood by the*
16 *patient.*

17 5. *A physician, physician assistant, advanced practice*
18 *registered nurse, midwife or hospital that fails to comply with the*
19 *provisions of this section:*

20 (a) *Is not subject to a criminal penalty or an administrative*
21 *fine pursuant to this chapter; and*

22 (b) *Is subject to disciplinary action, where applicable.*

23 6. *As used in this section:*

24 (a) *“Primary care” means the practice of family medicine,*
25 *pediatrics, internal medicine, obstetrics and gynecology and*
26 *midwifery.*

27 (b) *“Provider of health care” has the meaning ascribed to it in*
28 *NRS 629.031.*

29 **Sec. 2.** NRS 441A.910 is hereby amended to read as follows:

30 441A.910 Except as otherwise provided ~~[]~~ *in section 1 of this*
31 *act*, every person who violates any provision of this chapter is guilty
32 of a misdemeanor.

33 **Sec. 3.** NRS 441A.920 is hereby amended to read as follows:

34 441A.920 ~~[Every]~~ *Except as otherwise provided in section 1*
35 *of this act, every* provider of health care, medical facility or medical
36 laboratory that willfully fails, neglects or refuses to comply with any
37 regulation of the Board relating to the reporting of a communicable
38 disease or drug overdose or any requirement of this chapter is guilty
39 of a misdemeanor and, in addition, may be subject to an
40 administrative fine of \$1,000 for each violation, as determined by
41 the Board.

42 **Sec. 3.5.** NRS 449.160 is hereby amended to read as follows:

43 449.160 1. The Division may deny an application for a
44 license or may suspend or revoke any license issued under the



1 provisions of NRS 449.029 to 449.2428, inclusive, upon any of the
2 following grounds:

3 (a) Violation by the applicant or the licensee of any of the
4 provisions of NRS 439B.410 or 449.029 to 449.245, inclusive, or of
5 any other law of this State or of the standards, rules and regulations
6 adopted thereunder.

7 (b) Aiding, abetting or permitting the commission of any illegal
8 act.

9 (c) Conduct inimical to the public health, morals, welfare and
10 safety of the people of the State of Nevada in the maintenance and
11 operation of the premises for which a license is issued.

12 (d) Conduct or practice detrimental to the health or safety of the
13 occupants or employees of the facility.

14 (e) Failure of the applicant to obtain written approval from the
15 Director of the Department of Health and Human Services as
16 required by NRS 439A.100 or as provided in any regulation adopted
17 pursuant to NRS 449.001 to 449.430, inclusive, and 449.435 to
18 449.531, inclusive, and chapter 449A of NRS if such approval is
19 required.

20 (f) Failure to comply with the provisions of NRS 449.2486 **H or**
21 **section 1 of this act and any regulations adopted pursuant thereto.**

22 (g) Violation of the provisions of NRS 458.112.

23 2. In addition to the provisions of subsection 1, the Division
24 may revoke a license to operate a facility for the dependent if, with
25 respect to that facility, the licensee that operates the facility, or an
26 agent or employee of the licensee:

27 (a) Is convicted of violating any of the provisions of
28 NRS 202.470;

29 (b) Is ordered to but fails to abate a nuisance pursuant to NRS
30 244.360, 244.3603 or 268.4124; or

31 (c) Is ordered by the appropriate governmental agency to correct
32 a violation of a building, safety or health code or regulation but fails
33 to correct the violation.

34 3. The Division shall maintain a log of any complaints that it
35 receives relating to activities for which the Division may revoke the
36 license to operate a facility for the dependent pursuant to subsection
37 2. The Division shall provide to a facility for the care of adults
38 during the day:

39 (a) A summary of a complaint against the facility if the
40 investigation of the complaint by the Division either substantiates
41 the complaint or is inconclusive;

42 (b) A report of any investigation conducted with respect to the
43 complaint; and

44 (c) A report of any disciplinary action taken against the facility.



1 ↪ The facility shall make the information available to the public
2 pursuant to NRS 449.2486.

3 4. On or before February 1 of each odd-numbered year, the
4 Division shall submit to the Director of the Legislative Counsel
5 Bureau a written report setting forth, for the previous biennium:

6 (a) Any complaints included in the log maintained by the
7 Division pursuant to subsection 3; and

8 (b) Any disciplinary actions taken by the Division pursuant to
9 subsection 2.

10 **Sec. 4.** NRS 630.306 is hereby amended to read as follows:

11 630.306 1. The following acts, among others, constitute
12 grounds for initiating disciplinary action or denying licensure:

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

16 (b) Engaging in any conduct:

17 (1) Which is intended to deceive;

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

20 (3) Which is in violation of a provision of chapter 639 of
21 NRS, or a regulation adopted by the State Board of Pharmacy
22 pursuant thereto, that is applicable to a licensee who is a
23 practitioner, as defined in NRS 639.0125.

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

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

30 (e) Practicing or offering to practice beyond the scope permitted
31 by law or performing services which the licensee knows or has
32 reason to know that he or she is not competent to perform or which
33 are beyond the scope of his or her training.

34 (f) Performing, without first obtaining the informed consent of
35 the patient or the patient's family, any procedure or prescribing any
36 therapy which by the current standards of the practice of medicine is
37 experimental.

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

41 (h) Having an alcohol or other substance use disorder.

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

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



1 (k) Failure by a licensee or applicant to report in writing, within
2 30 days, any disciplinary action taken against the licensee or
3 applicant by another state, the Federal Government or a foreign
4 country, including, without limitation, the revocation, suspension or
5 surrender of a license to practice medicine in another jurisdiction.
6 The provisions of this paragraph do not apply to any disciplinary
7 action taken by the Board or taken because of any disciplinary
8 action taken by the Board.

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

15 (m) Failure to be found competent to practice medicine as a
16 result of an examination to determine medical competency pursuant
17 to NRS 630.318.

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

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

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

22 ➤ This paragraph applies to an owner or other principal responsible
23 for the operation of the facility.

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

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

27 (q) Knowingly or willfully procuring or administering a
28 controlled substance or a dangerous drug as defined in chapter 454
29 of NRS that is not approved by the United States Food and Drug
30 Administration, unless the unapproved controlled substance or
31 dangerous drug:

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

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

38 (3) Is cannabis being used for medical purposes in
39 accordance with chapter 678C of NRS; or

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

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

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



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

3 (u) Failure to comply with the provisions of NRS 454.217
4 or 629.086.

5 *(v) Failure to comply with the provisions of section 1 of this*
6 *act or any regulations adopted pursuant thereto.*

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

9 **Sec. 5.** NRS 632.347 is hereby amended to read as follows:

10 632.347 1. The Board may deny, revoke or suspend any
11 license or certificate applied for or issued pursuant to this chapter, or
12 take other disciplinary action against a licensee or holder of a
13 certificate, upon determining that the licensee or certificate holder:

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

16 (b) Is guilty of any offense:

17 (1) Involving moral turpitude; or

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

20 ↪ in which case the record of conviction is conclusive evidence
21 thereof.

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

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

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

32 (f) Is a person with mental incompetence.

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

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

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

41 (3) Impersonating another licensed practitioner or holder of a
42 certificate.

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



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

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

4 (7) Conviction for the use or unlawful possession of a
5 controlled substance or dangerous drug as defined in chapter 454 of
6 NRS.

7 (h) Has willfully or repeatedly violated the provisions of this
8 chapter. The voluntary surrender of a license or certificate issued
9 pursuant to this chapter is prima facie evidence that the licensee or
10 certificate holder has committed or expects to commit a violation of
11 this chapter.

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

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

16 (k) Has falsified information which was given to a physician,
17 pharmacist, podiatric physician or dentist to obtain a controlled
18 substance.

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

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

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

29 (3) Is cannabis being used for medical purposes in
30 accordance with chapter 678C of NRS; or

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

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

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

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

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

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

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



1 ↪ This paragraph applies to an owner or other principal responsible
2 for the operation of the facility.

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

6 (r) Is an advanced practice registered nurse who has failed to
7 comply with the provisions of NRS 453.163, 453.164, 453.226,
8 639.23507, 639.23535 and 639.2391 to 639.23916, inclusive, and
9 any regulations adopted by the State Board of Pharmacy pursuant
10 thereto.

11 (s) Has engaged in the fraudulent, illegal, unauthorized or
12 otherwise inappropriate prescribing, administering or dispensing of
13 a controlled substance listed in schedule II, III or IV.

14 (t) Has violated the provisions of NRS 454.217 or 629.086.

15 (*u*) *Has failed to comply with the provisions of section 1 of this*
16 *act or any regulations adopted pursuant thereto.*

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. 6.** 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 cannabis being used for medical purposes in
35 accordance with chapter 678C 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,
23 453.164, 453.226, 639.23507, 639.23535 and 639.2391 to
24 639.23916, inclusive, and any regulations adopted by the State
25 Board of Pharmacy pursuant thereto.

26 (x) Fraudulent, illegal, unauthorized or otherwise inappropriate
27 prescribing, administering or dispensing of a controlled substance
28 listed in schedule II, III or IV.

29 (y) Failure to comply with the provisions of NRS 454.217 or
30 629.086.

31 *(z) Failure to comply with the provisions of section 1 of this act*
32 *or any regulations adopted pursuant thereto.*

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

35 **Sec. 7.** This act becomes effective on July 1, 2021.

