

ASSEMBLY BILL NO. 442—COMMITTEE
ON COMMERCE AND LABOR

MARCH 27, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Requires the Board of Medical Examiners to take certain actions in response to certain complaints against a licensee. (BDR 54-1055)

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 medical professions; requiring the Board of Medical Examiners to notify an appropriate law enforcement agency of a complaint alleging that a physician, perfusionist, physician assistant or practitioner of respiratory care has committed any act constituting a felony; requiring the Board to summarily suspend, pending a formal hearing, the license of a physician, perfusionist, physician assistant or practitioner of respiratory care who is alleged to have committed any act constituting a felony which is the same as or substantially similar to an act alleged in an earlier complaint against the licensee; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes any person to file with the Board of Medical Examiners
2 a complaint against a physician, perfusionist, physician assistant or practitioner of
3 respiratory care. (NRS 630.307) **Section 2** of this bill requires the Board to notify
4 an appropriate law enforcement agency if the Board receives a complaint alleging
5 that a physician, perfusionist, physician assistant or practitioner of respiratory care
6 committed any act which, if proven, would constitute a felony. **Section 1** of this bill
7 makes a conforming change to refer to provisions that have been renumbered by
8 this bill.

9 If an investigation by the Board regarding a licensed physician, perfusionist,
10 physician assistant or practitioner of respiratory care reasonably determines that the
11 health, safety or welfare of the public or any patient served by the licensee is at risk
12 of imminent or continued harm, existing law authorizes the Board to summarily



13 suspend the license of the licensee pending the conclusion of a hearing to consider
14 a formal complaint against the licensee. (NRS 630.326) **Section 3** of this bill
15 requires the Board to summarily suspend the license of a licensee pending the
16 conclusion of a hearing to consider a formal complaint against the licensee, if the
17 Board receives a complaint that alleges the licensee committed any act which, if
18 proven, would constitute a felony and which is the same as or substantially similar
19 to an act that was the subject of a prior complaint against the same licensee.

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

1 **Section 1.** NRS 630.130 is hereby amended to read as follows:

2 630.130 1. In addition to the other powers and duties
3 provided in this chapter, the Board shall, in the interest of the public,
4 judiciously:

5 (a) Enforce the provisions of this chapter;

6 (b) Establish by regulation standards for licensure under this
7 chapter;

8 (c) Conduct examinations for licensure and establish a system of
9 scoring for those examinations;

10 (d) Investigate the character of each applicant for a license and
11 issue licenses to those applicants who meet the qualifications set by
12 this chapter and the Board; and

13 (e) Institute a proceeding in any court to enforce its orders or the
14 provisions of this chapter.

15 2. On or before February 15 of each odd-numbered year, the
16 Board shall submit to the Governor and to the Director of the
17 Legislative Counsel Bureau for transmittal to the next regular
18 session of the Legislature a written report compiling:

19 (a) Disciplinary action taken by the Board during the previous
20 biennium against any licensee for malpractice or negligence;

21 (b) Information reported to the Board during the previous
22 biennium pursuant to NRS 630.3067, 630.3068, subsections 3 and
23 ~~6~~ 7 of NRS 630.307 and NRS 690B.250; and

24 (c) Information reported to the Board during the previous
25 biennium pursuant to NRS 630.30665, including, without limitation,
26 the number and types of surgeries performed by each holder of a
27 license to practice medicine and the occurrence of sentinel events
28 arising from such surgeries, if any.

29 ➤ The report must include only aggregate information for statistical
30 purposes and exclude any identifying information related to a
31 particular person.

32 3. The Board may adopt such regulations as are necessary or
33 desirable to enable it to carry out the provisions of this chapter.



Sec. 2. NRS 630.307 is hereby amended to read as follows:

630.307 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, perfusionist, physician assistant or practitioner of respiratory care on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing medicine, perfusion or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. Except as otherwise provided in subsection 4, any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care to practice while the physician, perfusionist, physician assistant or practitioner of respiratory care is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician, perfusionist, physician assistant or practitioner of respiratory care concerning the care of a patient or the competency of the physician, perfusionist, physician assistant or practitioner of respiratory care within 30 days after the change in privileges is made or disciplinary action is taken.

4. A hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board within 5 days after a change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care to practice that is based on:

(a) An investigation of the mental, medical or psychological competency of the physician, perfusionist, physician assistant or practitioner of respiratory care; or

(b) Suspected or alleged substance abuse in any form by the physician, perfusionist, physician assistant or practitioner of respiratory care.

5. The Board shall report any failure to comply with subsection 3 or 4 by a hospital, clinic or other medical facility licensed in this State to the Division of Public and Behavioral Health of the Department of Health and Human Services. If, after a hearing, the Division of Public and Behavioral Health determines that any such facility or society failed to comply with the requirements of



1 subsection 3 or 4, the Division may impose an administrative fine of
2 not more than \$10,000 against the facility or society for each such
3 failure to report. If the administrative fine is not paid when due, the
4 fine must be recovered in a civil action brought by the Attorney
5 General on behalf of the Division.

6 6. *The Board shall notify an appropriate law enforcement*
7 *agency of any complaint received by the Board that alleges that a*
8 *physician, perfusionist, physician assistant or practitioner of*
9 *respiratory care has committed any act which, if proven, would*
10 *constitute a felony.*

11 7. The clerk of every court shall report to the Board any
12 finding, judgment or other determination of the court that a
13 physician, perfusionist, physician assistant or practitioner of
14 respiratory care:

15 (a) Is mentally ill;

16 (b) Is mentally incompetent;

17 (c) Has been convicted of a felony or any law governing
18 controlled substances or dangerous drugs;

19 (d) Is guilty of abuse or fraud under any state or federal program
20 providing medical assistance; or

21 (e) Is liable for damages for malpractice or negligence,

22 ↪ within 45 days after such a finding, judgment or determination is
23 made.

24 ~~[7.]~~ 8. The Board shall retain all complaints filed with the
25 Board pursuant to this section for at least 10 years, including,
26 without limitation, any complaints not acted upon.

27 **Sec. 3.** NRS 630.326 is hereby amended to read as follows:

28 630.326 1. If an investigation by the Board regarding a
29 physician, perfusionist, physician assistant or practitioner of
30 respiratory care reasonably determines that the health, safety or
31 welfare of the public or any patient served by the licensee is at risk
32 of imminent or continued harm, the Board may summarily suspend
33 the license of the licensee pending the conclusion of a hearing to
34 consider a formal complaint against the licensee. The order of
35 summary suspension may be issued only by the Board or an
36 investigative committee of the Board.

37 2. *If the Board receives a complaint pursuant to NRS 630.307*
38 *alleging that a physician, perfusionist, physician assistant or*
39 *practitioner of respiratory care has committed any act which, if*
40 *proven, would constitute a felony and which is the same as or*
41 *substantially similar to an act that was the subject of a prior*
42 *complaint against the same licensee, the Board shall summarily*
43 *suspend the license of the licensee pending the conclusion of a*
44 *hearing to consider a formal complaint against the licensee.*



1 **3.** If the Board or an investigative committee of the Board
2 issues an order summarily suspending the license of a physician,
3 perfusionist, physician assistant or practitioner of respiratory care
4 pursuant to subsection 1 ~~3~~ **or 2**, the Board shall hold a hearing not
5 later than 60 days after the date on which the order is issued, unless
6 the Board and the licensee mutually agree to a longer period, to
7 determine whether a reasonable basis exists to continue the
8 suspension of the license pending the conclusion of a hearing to
9 consider a formal complaint against the licensee. If no formal
10 complaint against the licensee is pending before the Board on the
11 date on which a hearing is held pursuant to this section, the Board
12 shall reinstate the license of the licensee.

13 ~~3~~ **4.** If the Board or an investigative committee of the Board
14 issues an order summarily suspending the license of a licensee
15 pursuant to subsection 1 **or 2** and the Board requires the licensee to
16 submit to a mental or physical examination or an examination
17 testing his or her competence to practice, the examination must be
18 conducted and the results obtained not later than 30 days after the
19 order is issued.

20 **Sec. 4.** This act becomes effective on July 1, 2023.



