

ASSEMBLY BILL NO. 442—COMMITTEE
ON COMMERCE AND LABOR

MARCH 27, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to persons licensed by the Board of Medical Examiners. (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 take certain actions in response to a complaint alleging that a physician, perfusionist, physician assistant or practitioner of respiratory care has committed any act constituting domestic violence or sexual assault; requiring a law enforcement agency to notify the Board of a report alleging that a physician, perfusionist, physician assistant or practitioner of respiratory care committed any act constituting domestic violence or sexual assault; requiring the Board to adopt regulations setting forth circumstances under which the Board is required to summarily suspend, pending a formal hearing, the license of a physician, perfusionist, physician assistant or practitioner of respiratory care in response to a complaint or a series of complaints; 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 ask a
4 person who files a complaint alleging that a physician, perfusionist, physician
5 assistant or practitioner of respiratory care committed any act which, if proven,
6 would constitute domestic violence or sexual assault whether the person wishes to
7 pursue a criminal investigation of the allegation. If so, **section 2** requires the Board
8 to take certain actions to notify and direct the person to an appropriate law
9 enforcement agency. **Section 2** also requires a law enforcement agency to notify the



10 Board of any report received by the law enforcement agency alleging that a
11 physician, perfusionist, physician assistant or practitioner of respiratory care has
12 committed an act which, if proven, would constitute domestic violence or sexual
13 assault. **Section 3.5** of this bill provides that such a law enforcement agency and
14 any of its employees are immune from any civil action for providing such a
15 notification to the Board. **Section 1** of this bill makes a conforming change to refer
16 to provisions that have been renumbered by this bill.

17 If an investigation by the Board regarding a licensed physician, perfusionist,
18 physician assistant or practitioner of respiratory care reasonably determines that the
19 health, safety or welfare of the public or any patient served by the licensee is at risk
20 of imminent or continued harm, existing law authorizes the Board to summarily
21 suspend the license of the licensee pending the conclusion of a hearing to consider
22 a formal complaint against the licensee. (NRS 630.326) **Section 3** of this bill
23 requires the Board to adopt regulations setting forth circumstances under which the
24 Board, in response to a complaint or series of complaints, is required to summarily
25 suspend the license of a licensee pending the conclusion of a hearing to consider a
26 formal complaint against the 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



1 license to practice medicine and the occurrence of sentinel events
2 arising from such surgeries, if any.

3 ➔ The report must include only aggregate information for statistical
4 purposes and exclude any identifying information related to a
5 particular person.

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

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

9 630.307 1. Except as otherwise provided in subsection 2, any
10 person may file with the Board a complaint against a physician,
11 perfusionist, physician assistant or practitioner of respiratory care on
12 a form provided by the Board. The form may be submitted in
13 writing or electronically. If a complaint is submitted anonymously,
14 the Board may accept the complaint but may refuse to consider the
15 complaint if the lack of the identity of the complainant makes
16 processing the complaint impossible or unfair to the person who is
17 the subject of the complaint.

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

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

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

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



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

4 5. The Board shall report any failure to comply with subsection
5 3 or 4 by a hospital, clinic or other medical facility licensed in this
6 State to the Division of Public and Behavioral Health of the
7 Department of Health and Human Services. If, after a hearing, the
8 Division of Public and Behavioral Health determines that any such
9 facility or society failed to comply with the requirements of
10 subsection 3 or 4, the Division may impose an administrative fine of
11 not more than \$10,000 against the facility or society for each such
12 failure to report. If the administrative fine is not paid when due, the
13 fine must be recovered in a civil action brought by the Attorney
14 General on behalf of the Division.

15 6. *If the Board receives a complaint that alleges that a*
16 *physician, perfusionist, physician assistant or practitioner of*
17 *respiratory care has committed any act which, if proven, would*
18 *constitute domestic violence pursuant to NRS 33.018 or sexual*
19 *assault pursuant to NRS 200.366, the Board shall ask the person*
20 *who filed the complaint, if the identity of the person is known, if*
21 *he or she wishes to pursue a criminal investigation of the*
22 *allegation in the complaint. If so, the Board shall:*

23 (a) *Provide to an appropriate law enforcement agency the*
24 *information contained in the complaint; and*

25 (b) *Direct the person to and, to the best of the Board's ability,*
26 *connect the person with, the law enforcement agency to which the*
27 *Board provides the information in the complaint pursuant to*
28 *paragraph (a).*

29 7. The clerk of every court shall report to the Board any
30 finding, judgment or other determination of the court that a
31 physician, perfusionist, physician assistant or practitioner of
32 respiratory care:

33 (a) Is mentally ill;

34 (b) Is mentally incompetent;

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

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

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

40 ➔ within 45 days after such a finding, judgment or determination is
41 made.

42 ~~[7]~~ 8. *A law enforcement agency shall notify the Board of*
43 *any report received by the law enforcement agency that alleges*
44 *that a physician, perfusionist, physician assistant or practitioner of*
45 *respiratory care has committed an act which, if proven, would*



1 *constitute domestic violence pursuant to NRS 33.018 or sexual*
2 *assault pursuant to NRS 200.366.*

3 **9.** The Board shall retain all complaints filed with the Board
4 pursuant to this section for at least 10 years, including, without
5 limitation, any complaints not acted upon.

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

7 630.326 1. If an investigation by the Board regarding a
8 physician, perfusionist, physician assistant or practitioner of
9 respiratory care reasonably determines that the health, safety or
10 welfare of the public or any patient served by the licensee is at risk
11 of imminent or continued harm, the Board may summarily suspend
12 the license of the licensee pending the conclusion of a hearing to
13 consider a formal complaint against the licensee. The order of
14 summary suspension may be issued only by the Board or an
15 investigative committee of the Board.

16 2. *The Board shall adopt regulations setting forth*
17 *circumstances under which the Board, in response to a complaint*
18 *filed with the Board pursuant to NRS 630.307 is required to*
19 *summarily suspend the license of a physician, perfusionist,*
20 *physician assistant or practitioner of respiratory care pending the*
21 *conclusion of a hearing to consider a formal complaint against the*
22 *licensee. Such regulations may, without limitation, require*
23 *the Board to summarily suspend the license of a licensee in*
24 *response to:*

25 (a) *A complaint alleging that a licensee committed certain acts*
26 *specified by the Board;*

27 (b) *A certain number of complaints filed against the licensee*
28 *over a certain period of time specified by the Board; or*

29 (c) *Any combination of the circumstances described in*
30 *paragraphs (a) and (b).*

31 3. If the Board or an investigative committee of the Board
32 issues an order summarily suspending the license of a physician,
33 perfusionist, physician assistant or practitioner of respiratory care
34 pursuant to subsection 1 ~~4~~ *or the regulations adopted pursuant to*
35 *subsection 2*, the Board shall hold a hearing not later than 60 days
36 after the date on which the order is issued, unless the Board and the
37 licensee mutually agree to a longer period, to determine whether a
38 reasonable basis exists to continue the suspension of the license
39 pending the conclusion of a hearing to consider a formal complaint
40 against the licensee. If no formal complaint against the licensee is
41 pending before the Board on the date on which a hearing is held
42 pursuant to this section, the Board shall reinstate the license of the
43 licensee.

44 ~~3~~ 4. If the Board or an investigative committee of the Board
45 issues an order summarily suspending the license of a licensee



1 pursuant to subsection 1 *or the regulations adopted pursuant to*
2 *subsection 2* and the Board requires the licensee to submit to a
3 mental or physical examination or an examination testing his or her
4 competence to practice, the examination must be conducted and the
5 results obtained not later than 30 days after the order is issued.

6 **Sec. 3.5.** NRS 630.364 is hereby amended to read as follows:

7 630.364 1. Any person or organization who furnishes
8 information concerning an applicant for a license or a licensee in
9 good faith in accordance with the provisions of this chapter ,
10 *including, without limitation, a law enforcement agency and any*
11 *of its employees who notify the Board pursuant to subsection 8 of*
12 *NRS 630.307*, is immune from any civil action for furnishing that
13 information.

14 2. The Board and any of its members and its staff, counsel,
15 investigators, experts, peer reviewers, committees, panels, hearing
16 officers, consultants and the employees or volunteers of a diversion
17 program are immune from any civil liability for:

18 (a) Any decision or action taken in good faith in response to
19 information acquired by the Board.

20 (b) Disseminating information concerning an applicant for a
21 license or a licensee to other boards or agencies of the State, the
22 Attorney General, any hospitals, medical societies, insurers,
23 employers, patients and their families or any law enforcement
24 agency.

25 3. Except as otherwise provided in subsection 4, the Board
26 shall not commence an investigation, impose any disciplinary action
27 or take any other adverse action against a physician for:

28 (a) Disclosing to a governmental entity a violation of any law,
29 rule or regulation by an applicant for a license to practice medicine
30 or by a physician; or

31 (b) Cooperating with a governmental entity that is conducting an
32 investigation, hearing or inquiry into such a violation, including,
33 without limitation, providing testimony concerning the violation.

34 4. A physician who discloses information to or cooperates with
35 a governmental entity pursuant to subsection 3 with respect to the
36 violation of any law, rule or regulation by the physician is subject to
37 investigation and any other administrative or disciplinary action by
38 the Board under the provisions of this chapter for such violation.

39 5. As used in this section:

40 (a) "Diversion program" means a program approved by the
41 Board to correct a licensee's alcohol or other substance use disorder
42 or any other impairment.

43 (b) "Governmental entity" includes, without limitation:



1 (1) A federal, state or local officer, employee, agency,
2 department, division, bureau, board, commission, council, authority
3 or other subdivision or entity of a public employer;

4 (2) A federal, state or local employee, committee, member or
5 commission of the Legislative Branch of Government;

6 (3) A federal, state or local representative, member or
7 employee of a legislative body or a county, town, village or any
8 other political subdivision or civil division of the State;

9 (4) A federal, state or local law enforcement agency or
10 prosecutorial office, or any member or employee thereof, or police
11 or peace officer; and

12 (5) A federal, state or local judiciary, or any member or
13 employee thereof, or grand or petit jury.

14 **Sec. 4.** 1. This section becomes effective upon passage and
15 approval.

16 2. Sections 1 to 3.5, inclusive, of this act become effective:

17 (a) Upon passage and approval for the purpose of adopting any
18 regulations and performing any other preparatory administrative
19 tasks that are necessary to carry out the provisions of this act; and

20 (b) On July 1, 2023, for all other purposes.

