SENATE BILL NO. 326-SENATOR HARDY

MARCH 22, 2021

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to providers of health care. (BDR 54-614)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: Yes.

EXPLANATION - Matter in bolded italics is new; matter between brackets fomitted material; is material to be omitted.

AN ACT relating to professions; authorizing a provider of health care who is licensed or certified in another state to register to use telehealth to provide services to patients located in this State; requiring the Board of Medical Examiners and the State Board of Osteopathic Medicine to prescribe electronic application forms and report Legislature; information to the requiring Commissioner of Insurance to prescribe a form on which a physician may apply to be included in the network of providers of any health carrier who provides coverage to residents of this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a provider of health care to hold a valid license or certificate in this State in order to use telehealth to direct or manage the care or render a diagnosis of a patient who is located at an originating site in this State or write a treatment order or prescription for such a patient. (NRS 629.515) Existing law authorizes the Governor to waive professional licensing requirements during an emergency. (NRS 414.070) On March 12, 2020, the Governor declared a state of emergency due to the COVID-19 pandemic. In the Declaration of Emergency Directive 11 issued pursuant to that State of Emergency on April 1, 2020, the Governor waived licensing requirements, including requirements relating to telehealth, for skilled medical professionals, including physicians, physician assistants, nurses, providers of emergency medical services, pharmacists and providers of behavioral health services. Section 3 of this bill defines the term "regulatory body" to mean any state agency or board that licenses or certifies providers of health care. Section 4 of this bill authorizes a provider of health care who holds a license or certificate in another jurisdiction of the United States to provide services to a patient located at an originating site in this State if he or she





registers with the regulatory body that regulates his or her profession in this State. **Section 4** provides that such registration is valid for 1 year and is not renewable. **Section 4**: (1) requires a registrant to comply with the laws and regulations governing the practice of his or her profession in this State; and (2) authorizes the applicable regulatory body to impose disciplinary action against a registrant who fails to comply with those laws and regulations. **Sections 7**, **10 and 11** of this bill make conforming changes to clarify that a registrant is authorized to use telehealth to provide services to residents of this State without being licensed or certified in this State.

Existing federal law requires each state to adopt procedures to ensure that applicants for occupational licenses and certificates comply with child support obligations. (42 U.S.C. § 666) **Sections 5 and 6** of this bill enact such procedures as applicable to an applicant for a registration to provide services using telehealth to residents of this State in order to comply with federal law. **Sections 13 and 16** of this bill remove a requirement that an application for a registration include the social security number of the applicant on the date that those federal requirements are repealed, while leaving in place the other requirements of **sections 5 and 6** until 2 years after that date.

Under existing law: (1) the Board of Medical Examiners licenses allopathic physicians and physician assistants, perfusionists and practitioners of respiratory care; and (2) the State Board of Osteopathic Medicine licenses osteopathic physicians and physician assistants. (Chapters 630 and 633 of NRS) Sections 8 and 9 of this bill require those boards to prescribe electronic application forms for the issuance or renewal of each license issued by those boards. Sections 8 and 9 require those forms to be free of discouraging or threatening language and the form to apply for the issuance of a license to include a statement welcoming the applicant to this State. Section 14 of this bill requires those boards to review the application forms prescribed by those boards for compliance with sections 8 and 9 and submit to the Legislature a report concerning those reviews. Sections 8 and 9 also require those boards to annually submit to the Legislature a report of the actual cost of issuing each license issued by those boards during the previous calendar year.

Existing law requires the Commissioner of Insurance to prescribe and make available on the Internet a form letter that a health carrier is required to use to notify a provider of health care of the denial of his or her application to be included in the network of providers of the health carrier. (NRS 679B.124) **Section 12** of this bill additionally requires the Commissioner to prescribe and make available on the Internet a form on which a physician may apply to be included in the network of providers of any health carrier that provides coverage to residents of this State.

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

Section 1. NRS 622.238 is hereby amended to read as follows: 622.238 1. The Legislature hereby finds and declares that:

- (a) It is in the best interests of this State to make full use of the skills and talents of every resident of this State.
- (b) It is the public policy of this State that each resident of this State, regardless of his or her immigration or citizenship status, is eligible to receive the benefit of applying for a license, certificate or permit pursuant to 8 U.S.C. § 1621(d).





2. Notwithstanding any other provision of this title, a regulatory body shall not deny the application of a person for the issuance of a license pursuant to this title based solely on his or her immigration or citizenship status.

3. Notwithstanding the provisions of NRS 623.225, 623A.185, 624.268, 625.387, 625A.105, 628.0345, 628B.320, 630.197, 630A.246, 631.225, 632.3446, 633.307, 634.095, 634A.115, 635.056, 636.159, 637.113, 637B.166, 638.103, 639.129, 640.095, 640A.145, 640B.340, 640C.430, 640D.120, 640E.200, 641.175, 641A.215, 641B.206, 641C.280, 642.0195, 643.095, 644A.485, 645A.358, 645A.025, 645B.023, 645B.420, 645C.295, 645C.655, 645D.195, 645E.210, 645G.110, 645H.550, 648.085, 649.233, 652.075, 653.550, 654.145, 655.075 and 656.155, *and section 5 of this act*, an applicant for a license who does not have a social security number must provide an alternative personally identifying number, including, without limitation, his or her individual taxpayer identification number, when completing an application for a license.

- 4. A regulatory body shall not disclose to any person who is not employed by the regulatory body the social security number or alternative personally identifying number, including, without limitation, an individual taxpayer identification number, of an applicant for a license for any purpose except:
 - (a) Tax purposes;

- (b) Licensing purposes; and
- (c) Enforcement of an order for the payment of child support.
- 5. A social security number or alternative personally identifying number, including, without limitation, an individual taxpayer identification number, provided to a regulatory body is confidential and is not a public record for the purposes of chapter 239 of NRS.
- **Sec. 2.** Chapter 629 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 6, inclusive, of this act.
- Sec. 3. As used in NRS 629.510 and 629.515 and sections 4, 5 and 6 of this act, unless the context otherwise requires, "regulatory body" means any state agency or board that licenses or certifies providers of health care in this State.
- Sec. 4. 1. A provider of health care who is not licensed or certified in this State may use telehealth to provide services to a patient who is located at an originating site in this State, including, without limitation, directing or managing care, rendering a diagnosis or writing a treatment order or prescription, if the provider:
- (a) Is licensed or certified in another state, the District of Columbia, the Commonwealth of Puerto Rico or a territory or





insular possession subject to the jurisdiction of the United States; and

- (b) Registers with the regulatory body that regulates the profession that the provider of health care is licensed or certified to practice.
- 2. A regulatory body shall issue a registration pursuant to subsection 1 upon the application of an applicant who:

(a) Satisfies the requirements of paragraph (a) of subsection 1;

- (b) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia, the Commonwealth of Puerto Rico or any state or territory in which the applicant currently holds or has held a license or certificate; and
- (c) Has not been held civilly or criminally liable for malpractice in the District of Columbia, the Commonwealth of Puerto Rico or any state or territory of the United States.
- 3. Registration issued pursuant to this section expires 1 year after the date of issuance and is not renewable. A provider of health care who is registered pursuant to this section shall comply with the laws and regulations governing the practice of his or her profession in this State when using telehealth to provide services to a patient located at an originating site in this State.
 - 4. A regulatory body:

- (a) Shall not charge a fee for registration pursuant to this section;
- (b) Shall not deem a person who is registered pursuant to this section and provides services authorized by subsection 1 to be practicing without a license or a certificate; and
- (c) May revoke a registration issued pursuant to this section or impose other disciplinary action against a registrant under the same circumstances and in accordance with the same procedure as applies to a person who is licensed or certified in this State.
 - 5. As used in this section:
- (a) "Originating site" has the meaning ascribed to it in NRS 629.515.
- (b) "Telehealth" has the meaning ascribed to it in NRS 629.515.
- Sec. 5. 1. In addition to the requirements set forth in section 4 of this act, an applicant for the issuance of a registration to provide telehealth services pursuant to that section shall:
- (a) Include the social security number of the applicant in the application submitted to the applicable regulatory body.
- (b) Submit to the applicable regulatory body the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS





425.520. The statement must be completed and signed by the applicant.

2. A regulatory body shall include the statement required

pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance of the registration; or

(b) A separate form prescribed by the regulatory body.

- 3. A registration to provide telehealth services may not be issued by the regulatory body if the applicant:
- (a) Fails to submit the statement required pursuant to subsection 1; or
- (b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.
- 4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the regulatory body shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.
- Sec. 6. 1. If a regulatory body receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a registration to provide telehealth services, the regulatory body shall deem the registration issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the regulatory body receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.
- 2. A regulatory body shall reinstate a registration to provide telehealth services that has been suspended by a district court pursuant to NRS 425.540 if the regulatory body receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose registration was suspended stating that the person whose registration was suspended has





complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 7. NRS 629.515 is hereby amended to read as follows:

and section 4 of this act, before a provider of health care who is located at a distant site may use telehealth to direct or manage the care or render a diagnosis of a patient who is located at an originating site in this State or write a treatment order or prescription for such a patient, the provider must hold a valid license or certificate to practice his or her profession in this State, including, without limitation, a special purpose license issued pursuant to NRS 630.261. The requirements of this subsection do not apply to a provider of health care who is providing services within the scope of his or her employment by or pursuant to a contract entered into with an urban Indian organization, as defined in 25 U.S.C. § 1603.

- 2. The provisions of this section must not be interpreted or construed to:
- (a) Modify, expand or alter the scope of practice of a provider of health care; or
- (b) Authorize a provider of health care to provide services in a setting that is not authorized by law or in a manner that violates the standard of care required of the provider of health care.
- 3. A provider of health care who is located at a distant site and uses telehealth to direct or manage the care or render a diagnosis of a patient who is located at an originating site in this State or write a treatment order or prescription for such a patient:
- (a) Is subject to the laws and jurisdiction of the State of Nevada, including, without limitation, any regulations adopted by an occupational licensing board in this State, regardless of the location from which the provider of health care provides services through telehealth.
- (b) Shall comply with all federal and state laws that would apply if the provider were located at a distant site in this State.
 - 4. As used in this section:
- (a) "Distant site" means the location of the site where a telehealth provider of health care is providing telehealth services to a patient located at an originating site.
- (b) "Originating site" means the location of the site where a patient is receiving telehealth services from a provider of health care located at a distant site.
- (c) "Telehealth" means the delivery of services from a provider of health care to a patient at a different location through the use of information and audio-visual communication technology, not including standard telephone, facsimile or electronic mail.





- **Sec. 8.** Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:
- 1. The Board shall prescribe electronic forms for applying for the issuance or renewal of each license issued by the Board pursuant to this chapter and forms for a biennial registration pursuant to NRS 630.267. The forms must:
- (a) Be available to be completed electronically on the Internet website maintained by the Board;
- (b) Provide immediate, automatic feedback to the applicant concerning whether the applicant has submitted all required information; and
- (c) Automatically store the data submitted by the applicant upon completion of the application.
 - 2. The forms prescribed pursuant to subsection 1:
- (a) Must not contain any language that could be interpreted to discourage applicants from applying for licensure or threaten applicants for licensure; and
 - (b) Must include the contact information for the Board.
- 3. The form prescribed pursuant to subsection 1 to apply for the issuance of a license must include the following statement:

The Board of Medical Examiners looks forward to helping you become licensed in Nevada and practice in Nevada. Please let us know how we can help facilitate your transition to Nevada.

- 4. On or before January 31 of each year, the Board shall compile a report of the actual costs of issuing each license issued by the Board during the previous calendar year and submit the report to:
 - (a) The Governor; and
- (b) The Director of the Legislative Counsel Bureau for transmittal to:
- (1) During an odd-numbered year, the next regular session of the Legislature; or
- (2) During an even-numbered year, the Legislative Committee on Health Care.
- **Sec. 9.** Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:
- 1. The Board shall prescribe electronic forms for applying for the issuance or renewal of each license issued by the Board pursuant to this chapter. The forms must:
- (a) Be available to be completed electronically on the Internet website maintained by the Board;



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- (b) Provide immediate, automatic feedback to the applicant concerning whether the applicant has submitted all required information; and
- (c) Automatically store the data submitted by the applicant upon completion of the application.
 - 2. The forms prescribed pursuant to subsection 1:
- (a) Must not contain any language that could be interpreted to discourage applicants from applying for licensure or threaten applicants; and
 - (b) Must include the contact information for the Board.
- 3. The form prescribed pursuant to subsection 1 to apply for the issuance of a license must include the following statement:

The State Board of Osteopathic Medicine looks forward to helping you become licensed in Nevada and practice in Nevada. Please let us know how we can help facilitate your transition to Nevada.

- 4. On or before January 31 of each year, the Board shall compile a report of the actual costs of issuing each license issued by the Board during the previous calendar year and submit the report to:
 - (a) The Governor; and

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- (b) The Director of the Legislative Counsel Bureau for transmittal to:
- (1) During an odd-numbered year, the next regular session of the Legislature; or
- (2) During an even-numbered year, the Legislative Committee on Health Care.
 - **Sec. 10.** NRS 633.711 is hereby amended to read as follows:
- 633.711 1. The Board, through an officer of the Board or the Attorney General, may maintain in any court of competent jurisdiction a suit for an injunction against any person:
- (a) Practicing osteopathic medicine or practicing as a physician assistant without a valid license to practice osteopathic medicine or to practice as a physician assistant; or
- (b) Providing services through telehealth, as defined in NRS 629.515, without a valid license [...] or a registration issued pursuant to section 4 of this act.
 - 2. An injunction issued pursuant to subsection 1:
- (a) May be issued without proof of actual damage sustained by any person, this provision being a preventive as well as a punitive measure.
- (b) Must not relieve such person from criminal prosecution for practicing without such a license.





- **Sec. 11.** NRS 637B.244 is hereby amended to read as follows:
- 637B.244 1. A person who engages in the practice of audiology or speech-language pathology by telepractice within this State and is a resident of this State or provides services by telepractice to any person in this State must:
- (a) Hold a license to engage in the practice of audiology or speech-language pathology, as applicable, in this State [;] or a registration issued pursuant to section 4 of this act;
- (b) Be knowledgeable and competent in the technology used to provide services by telepractice;
- (c) Only use telepractice to provide services for which delivery by telepractice is appropriate;
- (d) Provide services by telepractice that, as determined by the Board, are substantially equivalent in quality to services provided in person;
- (e) Document any services provided by telepractice in the record of the person receiving the services; and
- (f) Comply with the provisions of this chapter and any regulations adopted pursuant thereto.
- 2. As used in this section, "telepractice" means engaging in the practice of audiology or speech-language pathology using equipment that transfers information electronically, telephonically or by fiber optics.
 - **Šec. 12.** NRS 679B.124 is hereby amended to read as follows: 679B.124 1. The Commissioner shall:
- (a) Develop, prescribe and make available on an Internet website maintained by the Division
- (1) A form on which a physician may apply to be included in the network of providers of any health carrier that provides coverage to residents of this State; and
- (2) A form letter that a health carrier must use to notify a provider of health care of the denial of his or her application to be included in the network of providers of the health carrier. The form letter must include, without limitation, a place for the health carrier to explain the reason for the denial of the application.
- (b) Hold hearings to solicit public input when developing the form letter described in *subparagraph 2 of* paragraph (a) and consider such input when developing the form letter.
- 2. A health carrier shall submit to the Commissioner a copy of each form letter sent to a provider of health care pursuant to subsection 1 at the same time the letter is sent to the provider of health care. Except as otherwise provided in subsection 3, the forms submitted pursuant to the Commissioner pursuant to this subsection and the information contained therein are confidential.





The Commissioner shall:

- (a) Annually compile a report using aggregated data from the forms collected pursuant to subsection 2 concerning trends in the denial of applications of providers of health care to be included in the network of providers of a health carrier. The report must include, without limitation, the number of total denials, the number of denials for different types of providers of health care, the number of denials by different carriers and the reasons for such denials.
- (b) Post the report on an Internet website maintained by the Division.
- (c) Submit the report to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the Legislature.
- 4. As used in this section, "health carrier" means an entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the Commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including, without limitation, a sickness and accident health insurance company, a health maintenance organization, a nonprofit hospital and health service corporation or any other entity providing a plan of health insurance, health benefits or health care services.
- **Sec. 13.** Section 5 of this act is hereby amended to read as follows:
 - Sec. 5. 1. In addition to the requirements set forth in section 4 of this act, an applicant for the issuance of a registration to provide telehealth services pursuant to that section shall \vdash :
 - (a) Include the social security number of the applicant in the application submitted to the applicable regulatory body.
 - (b) Submit submit to the applicable regulatory body the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.
 - 2. A regulatory body shall include the statement required pursuant to subsection 1 in:
 - (a) The application or any other forms that must be submitted for the issuance of the registration; or
 - (b) A separate form prescribed by the regulatory body.
 - 3. A registration to provide telehealth services may not be issued by the regulatory body if the applicant:
 - (a) Fails to submit the statement required pursuant to subsection 1; or
 - (b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for





the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

- 4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the regulatory body shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.
- **Sec. 14.** On or before July 1, 2022, the Board of Medical Examiners and the State Board of Osteopathic Medicine shall:
- 1. Review and revise the forms prescribed by those boards to apply for the issuance or renewal of a license to ensure that the applications comply with the requirements of section 8 or 9, as applicable, of this act; and
- 2. Submit to the Legislative Committee on Health Care a report that describes the review conducted pursuant to subsection 1 and any changes made to the applications prescribed by those boards as a result of the review.
- **Sec. 15.** The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.
- **Sec. 16.** 1. This section becomes effective upon passage and approval.
- 2. Sections 1 to 12, inclusive, 14 and 15 of this act become effective:
- (a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and
 - (b) On January 1, 2022, for all other purposes.
- 3. Section 13 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:
- (a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or
- (b) Are in arrears in the payment for the support of one or more children,
- → are repealed by the Congress of the United States.





- 4. Section 1 of this act expires by limitation on date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:
- (a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or
- (b) Are in arrears in the payment for the support of one or more children,
- → are repealed by the Congress of the United States.
- 5. Sections 5, 6 and 13 of this act expire by limitation 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:
- (a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or
- (b) Are in arrears in the payment for the support of one or more children,
- → are repealed by the Congress of the United States.





