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Business Associations and Professions; Reporting Malpractice claims

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Business Associations and Professions

Business Associations and Professions; reporting malpractice claims

N.R.S. §§41A.010, 41A.020, 41A.030, 41A.040, 41A.050, 41A.055, 41A.060, 41A.070, 41A.080, 41A.090, 41A.095 (repealed); §690B (new); §§49.245, 630.301, 630.364, 631.050, 632.220, 632.320, 633.511, 634.010, 634A.170, 635.130, 636.300, 637.150, 637B.250, 639.210, 640.160 (amended).

AB 183 (Robinson); STATS 1981, Ch 327

Existing law provides that an insurer who has issued a policy of insurance to a licensed physician¹ covering any breach of a professional duty,² must report any settlement, award, or judgment for malpractice against the physician to the Commissioner of Insurance³ (hereinafter referred to as the Commissioner) within thirty days of each settlement, award, or judgment granted as a result of a claim.⁴ The report must include the name and address of both claimant and physician, along with the circumstances of the case.⁵ The Commissioner must inform the Board of Medical Examiners (hereinafter referred to as the Board) of each settlement, award, or judgment within thirty days after receiving the report of the insurer.⁶ Chapter 327, while failing to repeal sections 690B.050 1 and 690B.050 2 of the Nevada Revised Statutes, requires an insurer providing insurance to physicians, dentists,⁷ dental hygienists,⁸ and nurses,⁹ among others,¹⁰ to report all settlements,

1. See N.R.S. §630.014 (definition of a physician).

2. See *id.* §§630.022, 630.030 (definition of professional incompetence and unprofessional conduct). See also *id.* §§630.012 (definition of gross malpractice), 630.013 (definition of malpractice).

3. See *id.* §679A.060 (definition of Commissioner).

4. *Id.* §690B.050 1.

5. See *id.*

6. *Id.* §690B.050 2.

7. See *id.* §631.090 (definition of dentistry).

8. See *id.* §631.040 (definition of dental hygienist).

9. See *id.* §§632.010 5 (definition of practical nurse), 632.010 7 (definition of practice of professional nursing), 632.010 8 (definition of registered nurse).

10. See *id.* §§630.015, 630.271 (physician's assistants), 630.025 (limited license to resident physician in post-graduate program of clinical training), 633.091 (osteopathic physician), 634.010 2 (chiropractic), 634A.020 3 (doctor of acupuncture), 634A.020 4 (doctor of herbal medicine), 634A.020 5 (doctor of traditional oriental medicine), 634A.020 8 (licensed acupuncture assistant), 635.010 2 (podiatry), 635.010 3 (podiatry hygienist), 636.015 18 (practice of optometry), 637.020 2, 3 (dispensing optician), 637A.020 3 (hearing aid specialist), 637B.050 (practice of audiology),

awards, or judgments to their respective licensing boards within thirty days if the recovery exceeds \$5,000.¹¹ Apparently, the Commissioner must still report all recoveries against a physician received by him from the insurer to the Board, regardless of the dollar amount while those exceeding \$5,000 must be reported directly to the licensing board.¹² Chapter 327 also requires an uninsured provider of health care¹³ to report directly to the board that licensed the practitioner¹⁴ within thirty days of any settlement, award, or judgment exceeding \$5,000 that arises from a patient's claim for a breach of professional duty.¹⁵ In addition, Chapter 327 specifies that these reports are a matter of public record and must be made available for public inspection within a reasonable time after they are received by the licensing board.¹⁶

Under existing law, gross or repeated malpractice by a physician, osteopathic physician, audiologist, or speech pathologist is considered grounds for initiating disciplinary action.¹⁷ Chapter 327 permits settled claims of malpractice against these practitioners to be considered as evidence of gross or repeated malpractice.¹⁸ Chapter 327 further defines unprofessional conduct for dentists, nurses, chiropractors, podiatrists, and optometrists to include repeated malpractice, which also may be evidenced by claims of malpractice, settled against a practitioner.¹⁹ Additionally, Chapter 327 allows the Board of Dispensing Opticians and the State Board of Pharmacy to revoke or suspend the licenses of opticians or pharmacists respectively, when recurring negligence is established by repeated claims of malpractice settled against them.²⁰ Finally, Chapter 327 makes concomitant changes regarding practitioners

637B.070 (speech pathologist), 638.010 8 (veterinarian), 639.015 (registered pharmacist), 640.015 (licensed physical therapist), 640.021 (physical therapist).

11. *See id.* §690B.— 1.

12. *Compare id.* §§690B.050 1, 690B.050 2 with *id.* §690B.— 1.

13. *See id.* §629.031 (definition of health care provider but including audiologists, speech pathologists, hearing aid specialists, and veterinarians; and excluding licensed psychologists, medical laboratory directors, and a licensed hospital as the employer of any such person).

14. *See id.* §§630.010 (Board of Medical Examiners of the State of Nevada), 631.020 (Board of Dental Examiners of Nevada), 632.010 2 (State Board of Nursing), 633.021 (State Board of Osteopathic Medicine), 634.010 1 (Nevada State Board of Chiropractic Examiners), 634A.020 2 (State Board of Oriental Medicine), 635.010 1 (State Board of Podiatry), 636.015 4 (Nevada State Board of Optometry), 637.020 1 (Board of Dispensing Opticians), 637A.020 1 (Board of Hearing Aid Specialists), 637B.040 (Board of Examiners for Audiology and Speech Pathology), 638.010 3 (Nevada State Board of Veterinary Medical Examiners), 639.002 (State Board of Pharmacy), 640.013 (State Board of Physical Therapy Examiners).

15. *See id.* §690B.— 2.

16. *See id.* §690B.— 3.

17. *See id.* §§630.301, 633.511, 637B.250. *See generally id.* §41A.097 (who may initiate a malpractice claim).

18. *See id.* §§630.301 4, 633.511 4, 637B.250 4.

19. *See id.* §§631.050 1(s), 632.220 6(f), 632.320 6(f), 634.010 3(m), 635.130 8, 636.300 13.

20. *See id.* §§637.150 10, 639.210 1(o).

of traditional oriental medicine and physical therapists.²¹

Prior law provided for a joint medical-legal screening panel²² composed of attorneys, hospital administrators, and physicians to review particular cases of medical malpractice against any physician, his or her associates, servants, employees, or against any nurse individually where a physician is not joined in the claim.²³ Chapter 327 disposes of the medical-legal screening panel.²⁴ Finally, the tolling of the statute of limitations on any claim of malpractice that was pending before a medical-legal screening panel on July 1, 1981, will be continued for a period of six months commencing on July 1, 1981.²⁵

21. *See id.* §§634A.170 3 (allows claims of malpractice settled against a practitioner as evidence of gross negligence), 640.160 5 (allowing settled claims of malpractice as evidence of gross negligence).

22. STATUTES OF NEVADA 1979, c. 368, §1, at 633 (amending N.R.S. §41A.010 6).

23. STATUTES OF NEVADA 1979, c. 368, §3, at 334 (amending N.R.S. §41A.040).

24. STATUTES OF NEVADA 1981, c. 327, §15, at —.

25. STATUTES OF NEVADA 1981, c. 327, §16, at —. *See also* STATUTES OF NEVADA 1975, c. 302, §9, at 411 (enacting N.R.S. §41A.080).

Business Associations and Professions; foreign corporations— resident agents, penalty for failure to file amendments

N.R.S. §80.— (new); §80.030 (amended).

SB 104 (Committee on Judiciary); STATS 1981, Ch 20

SB 270 (Committee on Judiciary); STATS 1981, Ch 250

Existing law requires a foreign corporation that is seeking to do business in Nevada to file with the Secretary of State (hereinafter referred to as the Secretary) a certificate of corporate existence¹ and the name and address of a natural person or another corporation to serve as a registered agent for the foreign corporation in Nevada.² With the enactment of Chapter 250, any natural person or domestic corporation may register³ annually with the Secretary a notice of willingness to serve as a resident agent for foreign corporations.⁴ The Secretary will maintain a list of the registrations and make it available to foreign corporations seeking to do business in the state.⁵

1. *See* N.R.S. §80.010 1(a)(1).

2. *See id.* §80.010 1(a)(2), 1(a)(2)(I). *See also id.* §§80.130, 80.150 (status and penalty for failure to file); *Porter v. Mines & Milling Co.*, 59 Nev. 332, 93 P.2d 741 (1939); [1979] OP. ATT'Y GEN. NO. 79-30 (Dec. 28, 1979) (penalty is self-executing).

3. *See* N.R.S. §80.— 1 (the registration must be accompanied by a \$250 fee).

4. *Id.*

5. *Id.* §80.— 2.