



## **Nevada State Board of Dental Examiners**

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### **77<sup>TH</sup> (2013) LEGISLATIVE SESSION IN REVIEW**

Listed below you will find the following Senate Bills and Assembly Bills that have been enacted by the Legislature in this last legislative session. These bills may have a direct impact to the Nevada State Board of Dental Examiners and their licensees. Please familiarize yourself with these recent changes.

### **ASSEMBLY BILLS:**

#### **AB155: Child Abuse or Neglect Reporting – Effective - October 1, 2013**

This bill requires mandatory reporting of child abuse and neglect by persons in certain professions and occupations

#### **Legislative Counsel's Digest:**

Under existing law, persons in certain professions and occupations are required, if the person in his or her professional or occupational capacity knows or has reasonable cause to believe that a child has been abused or neglected, to report the abuse or neglect to an agency which provides child welfare services or to a law enforcement agency. (NRS 432B.220) Section 2 of this bill revises the manner in which those persons are specified in existing law and provides that those persons must be informed in writing or by electronic communication of their duty as mandatory reporters. Those persons must also provide a written acknowledgment or an electronic record of having been so informed. The party responsible for informing the person and maintaining a copy of the acknowledgment or record is: (1) the entity responsible for the licensure, certification or endorsement of the person in this State if such licensure, certification or endorsement is required in the person's professional or occupational capacity; or (2) the employer of the person if no licensure, certification or endorsement in this State is required. Section 5 of this bill requires those mandatory reporters currently holding a license, certificate or endorsement in this State to be informed of their duty as mandatory reporters at the next renewal of their license, certificate or endorsement and requires those current mandatory reporters who are not required to be licensed, certified or endorsed by this State to be informed of their duty as mandatory reporters by their employer on

or before December 31, 2013.

Section 1.5 of this bill requires the Legislative Committee on Health Care to review, after each regular session of the Nevada Legislature, any chapter added to title 39, 40 or 54 of NRS that authorizes or requires the issuance of a license, permit or certificate to a person who provides any service related to health care to determine if the person should be included as a person required to report the abuse or neglect of a child. Section 1.5 also requires the Committee, before the next regular session of the Legislature, to prepare and submit to the Legislature a report concerning the findings of the Committee. The report must include, without limitation, any recommended legislation.

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Existing law requires an attorney to report the abuse or neglect of a child unless the attorney acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect. (NRS 432B.220) Section 1.7 of this bill provides that an attorney is not required to report the abuse or neglect of a child if the attorney acquired the knowledge of the abuse or neglect from a client during a privileged communication if the client: (1) has been or may be accused of committing the abuse or neglect; or (2) is the victim of the abuse or neglect and is in foster care, except that the attorney may report the abuse or neglect with the consent of the child.

Under existing law, a failure to report the abuse or neglect of a child by a person with a duty to report the abuse or neglect is punishable as a misdemeanor. (NRS 432B.240) Section 3 of this bill provides that a first violation of the duty to report is punishable as a misdemeanor, and any subsequent violation is punishable as a gross misdemeanor.

Existing law requires an agency which provides child welfare services to immediately initiate an investigation upon receipt of a report concerning the possible abuse or neglect of a child if the report indicates that: (1) the child is 5 years of age or younger; (2) there is a high risk of serious harm to the child; (3) the child has died; or (4) the child is living in a household in which another child has died, been seriously injured or shows signs of abuse. (NRS 432B.260) Section 3.5 of this bill deletes the requirement for an immediate investigation when the report concerns the possible abuse or neglect of a child who is 5 years of age or younger. Under existing law, a parent may voluntarily leave a child who is not more than 30 days old with a provider of emergency services under certain circumstances, thereby presumably abandoning the child. That law is commonly referred to as Nevada's "Safe Haven Law." (NRS 432B.630) Section 4 of this bill expands the definition of "provider of emergency services" to include a volunteer fire department and any ambulance service holding a permit issued in this State

**AB228- Voluntary Healthcare Service- Registered by the Dept of Health & Human Services- Effective- October 1, 2013**

This bill authorizes a provider of health care who is licensed or certified in this State or another state or territory of the United States to provide voluntary health care service in this State without charge to the patient,

**Legislative Counsel's Digest:**

Section 7 of this bill authorizes a provider of health care who is licensed or certified in this State or another state or territory of the United States to provide voluntary health care service in this State without charge to the patient if the service is provided in association with a sponsoring organization that is registered with the Health Division of the Department of Health and Human Services. Section 7 prohibits a provider of health care from providing voluntary health care service under certain circumstances and from accepting compensation for the provision of such service. Section 8 of this bill requires a sponsoring organization to register with the Health Division and to include with the registration certain information regarding the sponsoring organization. Section 8 also requires a sponsoring organization to file quarterly reports with the Health Division containing certain information relating to the provision of voluntary health care service by a provider of health care in association with the sponsoring organization. Section 8 requires the sponsoring organization to maintain a record of such reports for not less than 5 years and to make the reports available for inspection by the Health Division upon reasonable request. Section 8.3 of this bill requires each provider of health care who provides voluntary health care service to obtain or otherwise carry a policy of professional liability insurance which insures the provider of health care against liability arising from such service. Section 8.7 of this bill requires a provider of health care currently providing voluntary health care service to report certain information to the Health Division relating to disciplinary action and complaints or charges of malpractice. Section 8.7 further requires the provider of health care to submit to the Health Division a complete set of fingerprints for the purpose of conducting a background check under certain circumstances.

**AB277: Dental Hygiene: Special Health Endorsement - Effective - July 1, 2013**

This amendment allows for the dental hygienist issued a special health endorsement to renew biennially to coincide with the dental hygiene license renewal. These holders must renew no later than June 30, 2014. All dental hygienist who have been issued a special health endorsement have received written notification from the Board of the legislative change.

**Legislative Counsel's Digest:**

Existing law authorizes a dental hygienist to obtain from the Board of Dental Examiners of Nevada a special endorsement of the dental hygienist's license that authorizes the dental hygienist to practice public health dental hygiene. A dental hygienist with such a special endorsement may perform such services for the promotion of public health dental hygiene as deemed appropriate by the State

Dental Health Officer. (NRS 631.287) Existing law further provides that an entity which owns or operates certain dental offices or clinics must designate an actively licensed dentist as the dental director to supervise the dental office or clinic. (NRS 631.3452)

Section 1 of this bill exempts a program that provides public health dental hygiene from the provisions requiring the designation of a licensed dentist as the dental director if: (1) the program is owned or operated by a dental hygienist who holds a special endorsement of his or her license to practice public health dental hygiene; and (2) each dental hygienist employed to provide public health dental hygiene pursuant to the program holds a special endorsement of his or her license to practice public health dental hygiene. Section 3 of this bill provides for the biennial renewal of such a special endorsement and authorizes a dental hygienist who holds such a special endorsement to provide services without the authorization or supervision of a dentist as specified by regulations adopted by the Board.

#### **AB445: Open Meeting Law - Effective - January 1, 2014**

This change to the Open Meeting law requires the Department to have a location on the State's official website fully operational by January 1, 2014 and requires the posting of notices of meetings by public bodies to the official website of the State beginning on January 1, 2014.

#### **Legislative Counsel's Digest:**

Under Nevada's Open Meeting Law, a public body is required to post a notice, an agenda and certain other information about each of its meetings, with certain exceptions. The notice must be posted at the principal office of the public body, or if there is no principal office, at the building in which the meeting is to be held, and at not less than three other separate, prominent places within the jurisdiction of the public body not later than 9 a.m. of the third working day before the meeting. (NRS 241.020) Section 2 of this bill requires the Department of Administration to establish and maintain a location on the official website of the State for the posting of notices by public bodies that are required by the Open Meeting Law. Section 2 also requires that the location be identified on the official website in a clear and conspicuous manner. Section 1 of this bill revises the notice provision of the Open Meeting Law to require the posting of notices of public meetings on the State's official website.

Section 2.5 of this bill requires the Department to: (1) establish a directory of all public bodies; and (2) include the directory on the official website of the State in a clear and conspicuous location.

Section 4 of this bill requires the Department to have the locations on the State's official website fully operational by January 1, 2014. Section 6 of this bill requires the posting of notices of meetings by public bodies to the official website

of the State beginning on January 1, 2014, except that section 5 of this bill allows public bodies of local governments until July 1, 2014, to comply with the new requirement.

#### **AB456: Healthcare Professionals Advertisements - Effective -January 1, 2014**

This bill amends Chapter 629 (Healing Arts Act) with regards to advertising by a health care professional.

##### **Legislative Counsel's Digest:**

This bill requires that an advertisement for health care services include certain information regarding the qualifications of a health care professional to whom the advertisement pertains, including information regarding any license or certification held by the health care professional. This bill also provides that such advertisements must not include any deceptive or misleading information. This bill requires a health care professional to communicate his or her specific licensure to all current and prospective patients and requires such a communication to include a written disclosure statement which is conspicuously displayed in the office of the health care professional and which clearly identifies the type of license held by the health care professional. This bill requires a health care professional to wear a name tag indicating his or her licensure or certification while providing health care services other than sterile procedures in a health care facility. This bill requires a health care professional to comply, as applicable, with such advertising and disclosure requirements in each office in which he or she practices, prescribes the format for certain advertisements and disclosures and sets forth certain exceptions to such requirements. This bill also prohibits a health care professional who is a physician or osteopathic physician from using the term "board certified" unless he or she discloses the name of the board by which he or she is certified and the board: (1) is a member board of the American Board of Medical Specialties or the American Osteopathic Association; or (2) meets certain other requirements. This bill further provides that a health care professional who violates the provisions of this bill is subject to disciplinary action.

#### **SENATE BILLS:**

#### **SB189 - Assault & Battery Healthcare Providers - Effective - October 1, 2013**

##### **Legislative Counsel's Digest:**

Existing law provides that a person is guilty of: (1) a category D felony if the person commits an assault upon a provider of health care; and (2) a category B felony if the person commits an assault upon a provider of health care with the use of a deadly weapon or the present ability to use a deadly weapon. (NRS 200.471) Existing law also provides that a person is guilty of: (1) a category B felony if the person commits a battery upon a provider of health care which causes substantial

bodily harm or is committed by strangulation; and (2) a gross misdemeanor if the person commits a battery upon a provider of health care and the person knew or should have known that the victim was a provider of health care. (NRS 200.481) This bill revises the definition of provider of health care to include a medical student, dental student, dental hygienist student and pharmacy student for the purposes of enhancing the penalties for the crimes of assault and battery against such a person.

**SB199- Medical Procedures without License- Felony- Effective - October 1, 2013**

**Legislative Counsel's Digest:**

Existing law requires various medical professionals to be licensed to practice in this State (Chapters 630-637, 639 and 640 of NRS) Sections 5 and 6 of this bill make it a felony to perform certain health care procedures or surgical procedures without a license and set forth specific penalties for engaging in such unlawful conduct.

Sections 7-9 and 10-18 of this bill amend various provisions of existing law which impose penalties for the practice of certain medical professions without a license to specify that if the provisions of section 5 or 6 provide a greater penalty for engaging in the unlawful conduct, the greater penalty must apply. Section 9.5 of this bill revises the provision defining when a person is deemed to be practicing dentistry.

**SB220- Professional Licensing Boards-Health Care- Effective- October, 1, 2013**

**Legislative Counsel's Digest:**

Existing law establishes various licensing boards to regulate persons who practice medicine, perfusion or respiratory care, homeopathic medicine, dentistry or dental hygiene, nursing, osteopathic medicine, chiropractic, Oriental medicine, podiatry, optometry, audiology, speech pathology, pharmacy, physical therapy, occupational therapy and cosmetology, and persons who practice as dispensing opticians, hearing aid specialists or administrators of facilities for long-term care. (Title 54 of NRS) This bill amends various provisions of NRS to ensure that these professions are similarly regulated.

Sections 2, 7, 13, 18, 25, 30, 35, 43, 49, 62, 69, 76, 86, 91.5 and 106 of this bill authorize a member or any agent of the various licensing boards to enter any premises in this State where a person who holds a license, certificate or permit issued by that board practices his or her profession pursuant to the license, certificate or permit and inspect the premises to determine whether any violation of existing law governing the profession has occurred.

Sections 9, 15, 21, 31, 37, 42, 51, 64, 71, 78, 88, 91, 97 and 108 of this bill provide for the filing of anonymous complaints concerning certain professions with the appropriate board.

Sections 3, 8, 14, 20.3, 20.7, 22, 26, 29, 36, 41, 47, 63, 70, 77, 85, 93, 99 and 105 of this bill require each of these various licensing boards, unless the board determines that extenuating circumstances exist, to forward to the appropriate law

enforcement agency any substantiated information submitted to the board concerning a person who, without the appropriate license, certificate or permit, engages in or offers to engage in activity for which a license, certificate or permit is required in this State. Sections 5, 10, 16, 23, 27, 32, 38, 44, 48, 60.7, 65, 72, 80, 87, 94, 101 and 108 of this bill require, to the extent feasible, each of the boards to communicate or cooperate with or provide documents or any other information to another licensing board or any other agency that is investigating a person, including a law enforcement agency.

Sections 6, 11, 17, 22, 28, 33, 39, 45, 50, 66, 73, 79, 81-84, 89 and 95 of this bill revise existing criminal penalties for the unlicensed practice of certain professions and authorize various licensing boards to impose administrative fines against, issue citations to, and issue and serve orders to cease and desist on persons who engage in the unlicensed practice of certain professions, or both. Section 110 of this bill provides for the forfeiture of all personal property used by certain persons to engage in the unlicensed practice of certain professions.

Sections 98 and 107 of this bill require the State Board of Cosmetology and the Board of Examiners for Long-Term Care Administrators, respectively, to refer complaints concerning matters within the jurisdiction of certain other licensing boards to the other licensing boards.

Existing law provides that notwithstanding any other provision requiring disclosure of information to the public pursuant to any proceeding by a state agency, board or commission with the authority to regulate certain occupations or professions, personal medical information or records of a patient are not required to be disclosed under certain circumstances. (NRS 622.310) Section 1 of this bill extends this protection from disclosure to any personal identifying information of a person alleged to have been injured by any act of another person for which a license, certificate or permit is required to be issued by a licensing board, and specifically requires such information to be kept confidential by the licensing board in whose possession the information is held.

Section 3.5 of this bill requires the Board of Medical Examiners to adopt regulations governing the possession and administration of botulinum toxin, commonly known as Botox, by a medical assistant or any other person.

Section 60.3 of this bill authorizes the Board of Dispensing Opticians to investigate the actions of any licensee of the Board that may constitute grounds for certain disciplinary actions.

Section 98.5 of this bill requires the State Board of Cosmetology to take such actions as it determines are reasonable to enable schools of cosmetology to receive certain federal money. Section 100.5 of this bill revises provisions governing the licensing of schools of cosmetology.

### **SB497 – Dental Care Plans- Effective - May 29, 2013**

#### **Legislative Counsel's Digest:**

Section 1 of this bill prohibits a plan for dental care or a contract between an organization for dental care and a dentist who provides dental care to persons enrolled in such a plan and their dependents from requiring the dentist to accept a fee set by or subject to the approval of an organization for dental care for dental

care other than certain covered services. **Section 1** further prohibits an organization for dental care or any other person providing services as a third-party administrator from making any dentists available in its network of dentists to a plan for dental care that sets fees for any dental care except covered services.

Existing law authorizes the Commissioner of Insurance to: (1) suspend or revoke the certificate of authority issued to an organization for dental care that fails to comply substantially with the provisions which govern plans for dental care; and (2) impose a fine of not more than \$500 for each violation. (NRS 695D.300) An organization for dental care that violates the provisions of **section 1** is subject to those provisions.

**Section 3** of this bill requires, under certain circumstances, a dentist to charge the same fees for a covered service for which reimbursement is not available because the patient has exceeded the benefit provided for the calendar year under the terms of a policy given to the patient pursuant to a plan for dental care as the dentist would have charged the patient if the benefit provided for the calendar year under the terms of the policy had not been exceeded.

Existing law authorizes the Board of Dental Examiners of Nevada to suspend or revoke the license or renewal certificate of, or to impose a fine against, a dentist or dental hygienist who violates any provisions which govern dentistry and dental hygiene. (NRS 631.350) A dentist who violates the provisions of **section 3** is subject to that provision.