**NRS 632.352 Review and investigation of complaint relating to prescriptions for certain controlled substances; notice to licensee; formal complaint and hearing; referral or postponement of investigation; regulations.**

1. The Executive Director of the Board or his or her designee shall review and evaluate any complaint or information received from the Investigation Division of the Department of Public Safety or the State Board of Pharmacy, including, without limitation, information provided pursuant to NRS 453.164, or from a law enforcement agency, professional licensing board or any other source indicating that:
2. A licensee has issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV;
3. A pattern of prescriptions issued by a licensee indicates that the licensee has issued prescriptions in the manner described in paragraph (a); or
4. A patient of a licensee has acquired, used or possessed a controlled substance listed in schedule II, III or IV in a fraudulent, illegal, unauthorized or otherwise inappropriate manner.
5. If the Executive Director of the Board or his or her designee receives information described in subsection 1 concerning the licensee, the Executive Director or his or her designee must notify the licensee as soon as practicable after receiving the information.
6. A review and evaluation conducted pursuant to subsection 1 must include, without limitation:
7. A review of relevant information contained in the database of the program established pursuant to NRS 453.162;
8. A requirement that the licensee who is the subject of the review and evaluation attest that he or she has complied with the requirements of NRS 639.23507, 639.2391, 639.23911 and 639.23915, as applicable; and
9. A request for additional relevant information from the licensee who is the subject of the review and evaluation.
10. If, after a review and evaluation conducted pursuant to subsection 1, the Executive Director or his or her designee determines that a licensee may have issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV, the Board must proceed as if a written complaint had been filed against the licensee. If, after conducting an investigation and a hearing in accordance with the provisions of this chapter, the Board determines that the licensee issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription, the Board must impose appropriate disciplinary action.
11. When deemed appropriate, the Executive Director of the Board may:
12. Refer information acquired during a review and evaluation conducted pursuant to subsection 1 to another professional licensing board, law enforcement agency or other appropriate governmental entity for investigation and criminal or administrative proceedings.
13. Postpone any notification, review or part of such a review required by this section if he or she determines that it is necessary to avoid interfering with any pending administrative or criminal investigation into the suspected fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, dispensing or use of a controlled substance.
14. The Board shall adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III or IV or violating the provisions of NRS 639.2391 to 639.23916, inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto. Such disciplinary action must include, without limitation, requiring the licensee to

complete additional continuing education concerning prescribing controlled substances listed in schedules II, III and IV.

(Added to NRS by 2017, 4416)

**NRS 632.353 Summary suspension of licensee’s authority to prescribe, administer or dispense certain controlled substances; issuance of order; formal hearing and decision.**

1. If the Board determines from an investigation of a licensee that the health, safety or welfare of the public or any patient served by the licensee is at risk of imminent or continued harm because of the manner in which the licensee prescribed, administered, dispensed or used a controlled substance, the Board may summarily suspend the licensee’s authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV pending a determination upon the conclusion of a hearing to consider a formal complaint against the licensee. An order of summary suspension may be issued only by the Board, the President of the Board, the presiding officer of an investigative committee convened by the Board to conduct the investigation or the member of the Board who conducted the investigation.
2. If an order to summarily suspend a licensee’s authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV is issued pursuant to subsection 1 by the presiding officer of an investigative committee of the Board or a member of the Board, that person shall not participate in any further proceedings of the Board relating to the order.
3. If the Board, the presiding officer of an investigative committee of the Board or a member of the Board issues an order summarily suspending a licensee’s authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV pursuant to subsection 1, the Board must hold a hearing to consider the formal complaint against the licensee. The Board must hold the hearing and render a decision concerning the formal complaint within 60 days after the date on which the order is issued, unless the Board and the licensee mutually agree to a longer period.

(Added to NRS by 2017, 4417)

**NRS 632.2375 Advanced practice registered nurse: Training relating to misuse and abuse of controlled substances, prescribing of opioids or addiction if registered to dispense controlled substances; regulations.** The Board shall, by regulation, require each advanced practice registered nurse who is registered to dispense controlled substances pursuant to NRS 453.231 to complete at least 2 hours of training relating specifically to the misuse and abuse of controlled substances, the prescribing of opioids or addiction during each period of licensure. An advanced practice registered nurse may use such training to satisfy 2 hours of any continuing education requirement established by the Board.

(Added to NRS by 2015, 118; A 2017, 4418)

# DISCIPLINARY AND OTHER ACTIONS

**ADMINISTRATIVE REGULATIONS.**

Disciplinary action and practice before Board, NAC 632.890-632.940

# NRS 632.347 Grounds for denial, revocation or suspension of license or certificate or other disciplinary action.

1. The Board may deny, revoke or suspend any license or certificate applied for or issued pursuant to this chapter, or take other disciplinary action against a licensee or holder of a certificate, upon determining that the licensee or certificate holder:
2. Is guilty of fraud or deceit in procuring or attempting to procure a license or certificate pursuant to this chapter.
3. Is guilty of any offense:
	1. Involving moral turpitude; or
	2. Related to the qualifications, functions or duties of a licensee or holder of a certificate,

 in which case the record of conviction is conclusive evidence thereof.

1. Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.
2. Is unfit or incompetent by reason of gross negligence or recklessness in carrying out usual nursing functions.
3. Uses any controlled substance, dangerous drug as defined in chapter 454 of NRS, or intoxicating liquor to an extent or in a manner which is dangerous or injurious to any other person or which impairs his or her ability to conduct the practice authorized by the license or certificate.
4. Is a person with mental incompetence.
5. Is guilty of unprofessional conduct, which includes, but is not limited to, the following:
	1. Conviction of practicing medicine without a license in violation of chapter 630 of NRS, in which case the record of conviction is conclusive evidence thereof.
	2. Impersonating any applicant or acting as proxy for an applicant in any examination required pursuant to this chapter for the issuance of a license or certificate.
	3. Impersonating another licensed practitioner or holder of a certificate.
	4. Permitting or allowing another person to use his or her license or certificate to practice as a licensed practical nurse, registered nurse, nursing assistant or medication aide - certified.
	5. Repeated malpractice, which may be evidenced by claims of malpractice settled against the licensee or certificate holder.
	6. Physical, verbal or psychological abuse of a patient.
	7. Conviction for the use or unlawful possession of a controlled substance or dangerous drug as defined in chapter 454 of NRS.
6. Has willfully or repeatedly violated the provisions of this chapter. The voluntary surrender of a license or certificate issued pursuant to this chapter is prima facie evidence that the licensee or certificate holder has committed or expects to commit a violation of this chapter.
7. Is guilty of aiding or abetting any person in a violation of this chapter.
8. Has falsified an entry on a patient’s medical chart concerning a controlled substance.
9. Has falsified information which was given to a physician, pharmacist, podiatric physician or dentist to obtain a controlled substance.
10. Has knowingly procured or administered a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:
	1. Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;
	2. Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328;
	3. Is marijuana being used for medical purposes in accordance with chapter 453A of NRS; or
	4. Is an investigational drug or biological product prescribed to a patient pursuant to NRS 630.3735 or 633.6945.
11. Has been disciplined in another state in connection with a license to practice nursing or a certificate to practice as a nursing assistant or medication aide - certified, or has committed an act in another state which would constitute a violation of this chapter.
12. Has engaged in conduct likely to deceive, defraud or endanger a patient or the general public.
13. Has willfully failed to comply with a regulation, subpoena or order of the Board.
14. Has operated a medical facility at any time during which:
	1. The license of the facility was suspended or revoked; or
	2. An act or omission occurred which resulted in the suspension or revocation of the license pursuant to NRS 449.160.

 This paragraph applies to an owner or other principal responsible for the operation of the facility.

1. Is an advanced practice registered nurse who has failed to obtain any training required by the Board pursuant to NRS 632.2375.
2. Is an advanced practice registered nurse who has failed to comply with the provisions of NRS 453.163, 453.164, 453.226, 639.23507, 639.2391 to 639.23916, inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto.
3. Has engaged in the fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, administering or dispensing of a controlled substance listed in schedule II, III or IV.
4. Has violated the provisions of NRS 454.217 or 629.086.
5. For the purposes of this section, a plea or verdict of guilty or guilty but mentally ill or a plea of nolo contendere constitutes a conviction of an offense. The Board may take disciplinary action pending the appeal of a conviction.
6. A licensee or certificate holder is not subject to disciplinary action solely for administering auto-injectable epinephrine pursuant to a valid order issued pursuant to NRS 630.374 or 633.707.
7. As used in this section, “investigational drug or biological product” has the meaning ascribed to it in NRS 454.351.

[Part 7:154:1949; A 1955, 547]—(NRS A 1963, 616; 1971, 2034; 1973, 527;

1981, 592; 1983, 831; 1987, 1557; 1989, 2052; 1993, 785; 1995, 1652; 1997, 536;

1999, 405; 2003, 1498, 2708; 2007, 1471; 2009, 884; 2011, 259, 849, 1329; 2013,

1227; 2015, 118, 988, 1171; 2017 1258, 4418)—(Substituted in revision for NRS

632.320)

**NRS CROSS REFERENCES.**

Computerized program to track prescriptions for controlled substances, duties, NRS 453.163, 453.164

**NEVADA CASES.**

**Failure of nurse to accept and administer certain medication was not unprofessional conduct.** Nurse who: (1) refused to accept an order for additional morphine for a terminally ill patient from a physician who was the patient’s son; (2) failed to obtain an order from the patient’s physician of record; (3) accepted an order from another physician who was familiar with the patient’s treatment; and (4) failed to administer medication to reverse the effects of morphine administered to the patient did not engage in unprofessional conduct under former NRS 632.320 (cf. NRS 632.347) and the regulations adopted pursuant thereto by failing to follow customary standards for the practice of nursing. State Bd. of Nursing v. Merkley, 113 Nev. 659, 940 P.2d 144 (1997)

**Nurse did not fail to collaborate with other members of health care team as necessary to meet health needs of patient.** Nurse who: (1) refused to accept an order for additional morphine for a terminally ill patient from a physician who was the patient’s son; (2) failed to obtain an order from the patient’s physician of record; and (3) accepted an order from another physician who was familiar with the patient’s treatment, did not engage in unprofessional conduct under former NRS 632.320 (cf. NRS 632.347) and the regulations adopted pursuant thereto by failing to collaborate with other members of the health care team as necessary to meet the health needs of the patient. State Bd. of Nursing v. Merkley, 113 Nev. 659, 940 P.2d 144 (1997)

**Failure of nurse to observe, record and report condition of terminally ill patient did not constitute unprofessional conduct.** Nurse who had been ordered to provide only comfort care to terminally ill patient did not engage in unprofessional conduct under former NRS 632.320 (cf. NRS 632.347) and the regulations adopted pursuant thereto by failing to observe, record and report the condition of the patient where: (1) the nurse provided level of monitoring and assessment of the patient that was consistent with the provision of comfort care; (2) the patient’s condition was constantly monitored by the patient’s son who was a physician; and (3) the patient’s son indicated that he did not want his father to be disturbed by the nurse for full assessment of the patient. State Bd. of Nursing v. Merkley, 113 Nev. 659, 940 P.2d 144 (1997)

**Nurse who falsely recorded the date on an order for administration of morphine to terminally ill patient engaged in unprofessional conduct.** Nurse who falsely recorded the date on an order for administration of morphine to a terminally ill patient engaged in unprofessional conduct under former NRS 632.320 (cf. NRS 632.347). State Bd. of Nursing v. Merkley, 113 Nev. 659, 940 P.2d 144 (1997)

**Act abolishing insanity defense and authorizing plea of “guilty but mentally ill” is unconstitutional.** The provisions of Senate Bill No. 314 of the 1995 Legislative Session (see ch. 637, Stats. 1995), which abolished exculpation by reason of insanity and authorized a plea of “guilty but mentally ill” in criminal proceedings, are unconstitutional. “Legal insanity,” pursuant to which a person is not culpable for a criminal act if he cannot form the necessary mens rea, is a fundamental principle under the due process clauses of both the U.S. and Nevada constitutions (see Nev. Art. 1, § 8). Furthermore, although certain provisions of the 1995 act could be construed in a constitutional fashion, they cannot be severed without defeating the whole scope and object of the law, and thus the provisions of Senate Bill No. 314 of the 1995 Legislative Session must be rejected in their entirety. (N.B., case decided before amendment of former NRS 632.320 (cf. NRS 632.347) in 2003.) Finger v. State, 117 Nev. 548, 27 P.3d 66 (2001), cited, O’Guinn v. State, 118 Nev. 849, at 852, 59 P.3d

488 (2002)