

ASSEMBLY BILL NO. 373—ASSEMBLYMEN GIUNCHIGLIANI, ARBERRY,
PARKS, WILLIAMS, COLLINS, MANENDO, OHRENSCHALL, PRICE,
GIBBONS, BERMAN, CHOWNING, FREEMAN, DE BRAGA, EVANS,
LESLIE, NOLAN, CLABORN, MORTENSON, LEE, NEIGHBORS,
BUCKLEY, BACHE, ANDERSON, PERKINS, KOIVISTO, MCCLAIN
AND PARNELL

MARCH 3, 1999

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes concerning certain health care facilities and mentally ill or mentally retarded persons. (BDR 40-858)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: 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 health care; making various changes concerning certain health care facilities; repealing the provisions providing for the registration of homes for individual residential care; requiring such homes to become licensed as residential facilities for groups; requiring all facilities for the treatment of abuse of alcohol or drugs to be certified by the bureau of alcohol and drug abuse in the rehabilitation division of the department of employment, training and rehabilitation and to be licensed by the health division of the department of human resources; providing a penalty; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 449 of NRS is hereby amended by adding thereto
- 2
- 3 the provisions set forth as sections 2 and 3 of this act.
- 4 **Sec. 2.** *A person who operates a residential facility for groups shall:*
- 5 **1. Post his license to operate the residential facility for groups; and**
- 6 **2. Post the rates for services provided by the residential facility for**
- 7 **groups,**
- 8 ***in a conspicuous place in the residential facility for groups.***
- 9 **Sec. 3. 1. A person must obtain a license from the board to operate**
- 10 ***a business that provides referrals to residential facilities for groups.***

1 **2. The board shall adopt:**

2 **(a) Standards for the licensing of businesses that provide referrals to**
3 **residential facilities for groups; and**

4 **(b) Regulations governing the licensing of such businesses.**

5 **3. Only a licensed nurse, social worker, physician or hospital may**
6 **provide referrals to residential facilities for groups through a business**
7 **that is licensed pursuant to this section.**

8 **4. A business that is licensed pursuant to this section or an employee**
9 **of such a business shall not refer a person to a residential facility for**
10 **groups that is not licensed. A person who violates the provisions of this**
11 **subsection shall be punished by an administrative fine established by the**
12 **board.**

13 **Sec. 4.** NRS 449.00455 is hereby amended to read as follows:

14 449.00455 “Facility for the treatment of abuse of alcohol or drugs”
15 means any public or private establishment which provides residential
16 treatment, including mental and physical restoration, of abusers of alcohol
17 or drugs . ~~[which is certified by the bureau of alcohol and drug abuse in the~~
18 ~~rehabilitation division of the department of employment, training and~~
19 ~~rehabilitation, pursuant to subsection 3 of NRS 458.025. It]~~ **The term** does
20 not include a medical facility or services offered by volunteers or
21 voluntary organizations.

22 **Sec. 5.** NRS 449.017 is hereby amended to read as follows:

23 449.017 1. Except as otherwise provided in subsection 2, “residential
24 facility for groups” means an establishment that furnishes food, shelter,
25 assistance and limited supervision to:

26 (a) Any aged, infirm, mentally retarded or handicapped person; or

27 (b) Four or more females during pregnancy or after delivery.

28 2. The term does not include:

29 (a) An establishment which provides care only during the day;

30 (b) ~~[A natural person who provides care for no more than two persons~~
31 ~~in his own home;~~

32 ~~—(c)]~~ A natural person who provides care for one or more persons related
33 to him within the third degree of consanguinity or affinity; or

34 ~~[(d)]~~ (c) A facility funded by the welfare division or the mental hygiene
35 and mental retardation division of the department of human resources.

36 **Sec. 6.** NRS 449.030 is hereby amended to read as follows:

37 449.030 1. No person, state or local government or agency thereof
38 may operate or maintain in this state any medical facility or facility for the
39 dependent without first obtaining a license therefor as provided in NRS
40 449.001 to 449.240, inclusive ~~[-],~~ **and sections 2 and 3 of this act.**

41 2. Unless licensed as a freestanding facility for hospice care, a person,
42 state or local government or agency thereof shall not operate a program of

1 hospice care without first obtaining a license for the program from the
2 board.

3 **Sec. 7.** NRS 449.037 is hereby amended to read as follows:

4 449.037 1. The board shall adopt:

5 (a) Licensing standards for each class of medical facility or facility for
6 the dependent covered by NRS 449.001 to 449.240, inclusive, and for
7 programs of hospice care.

8 (b) Regulations governing the licensing of such facilities and programs.

9 (c) Regulations governing the procedure and standards for granting an
10 extension of the time for which a natural person may provide certain care
11 in his home without being considered a residential facility for groups
12 pursuant to NRS 449.017. The regulations must require that such grants
13 are effective only if made in writing.

14 (d) Any other regulations as it deems necessary or convenient to carry
15 out the provisions of NRS 449.001 to 449.240, inclusive.

16 2. The board shall adopt separate regulations governing the licensing
17 and operation of:

18 (a) Facilities for the care of adults during the day; and

19 (b) Residential facilities for groups,
20 which provide care to persons with Alzheimer's disease.

21 3. The board shall adopt separate regulations for the licensure of rural
22 hospitals which take into consideration the unique problems of operating
23 such a facility in a rural area.

24 4. The board shall require that the practices and policies of each
25 medical facility or facility for the dependent provide adequately for the
26 protection of the health, safety and physical, moral and mental well-being
27 of each person accommodated in the facility.

28 5. The board shall establish minimum qualifications for administrators
29 and employees of residential facilities for groups. In establishing the
30 qualifications, the board shall consider the related standards set by
31 nationally recognized organizations which accredit such facilities.

32 6. The board shall adopt separate regulations regarding the assistance
33 which may be given pursuant to NRS 453.375 and 454.213 to an ultimate
34 user of controlled substances or dangerous drugs by employees of
35 residential facilities for groups. The regulations must require at least the
36 following conditions before such assistance may be given:

37 (a) The ultimate user's physical and mental condition is stable and is
38 following a predictable course.

39 (b) The amount of the medication prescribed is at a maintenance level
40 and does not require a daily assessment.

41 (c) A written plan of care by a physician or registered nurse has been
42 established

that:

1 (1) Addresses possession and assistance in the administration of the
2 medication; and

3 (2) Includes a plan, which has been prepared under the supervision of
4 a registered nurse or licensed pharmacist, for emergency intervention if an
5 adverse condition results.

6 (d) The prescribed medication is not administered by injection or
7 intravenously.

8 (e) The employee has successfully completed training and examination
9 approved by the health division regarding the authorized manner of
10 assistance.

11 ***7. The board, in consultation with the state fire marshal, shall adopt***
12 ***plans and requirements to ensure that each residential facility for groups***
13 ***and its staff is prepared to respond to an emergency, including, without***
14 ***limitation:***

15 ***(a) The adoption of plans to respond to a natural disaster and other***
16 ***types of emergency situations, including, without limitation, an***
17 ***emergency involving fire;***

18 ***(b) The adoption of plans to provide for the evacuation of a residential***
19 ***facility for groups in an emergency, including, without limitation, plans***
20 ***to ensure that nonambulatory patients may be evacuated;***

21 ***(c) Educating the residents of residential facilities for groups***
22 ***concerning the plans adopted pursuant to paragraphs (a) and (b); and***

23 ***(d) Posting the plans or a summary of the plans adopted pursuant to***
24 ***paragraphs (a) and (b) in a conspicuous place in each residential facility***
25 ***for groups.***

26 **Sec. 8.** NRS 449.210 is hereby amended to read as follows:

27 449.210 ~~{Any}~~

28 ***1. Except as otherwise provided in subsections 2 and 3, a person who***
29 ***operates a medical facility or facility for the dependent without a license***
30 ***issued by the health division is guilty of a misdemeanor.***

31 ***2. A person who operates a residential facility for groups without a***
32 ***license issued by the health division is guilty of a misdemeanor and:***

33 ***(a) Shall be punished by a fine of \$10,000;***

34 ***(b) Shall be required to move all of the persons who are receiving***
35 ***services in the residential facility for groups to a residential facility for***
36 ***groups that is licensed at his own expense; and***

37 ***(c) May not apply for a license to operate a residential facility for***
38 ***groups for a period of 6 months after he is punished pursuant to this***
39 ***section.***

40 ***3. A person who operates a residential facility for groups without a***
41 ***license issued by the health division after having been punished for a***
42 ***violation of this section is guilty of a category D felony and shall be***

1 *punished as provided in NRS 193.130, and by a fine of not less than*
2 *\$10,000 and not more than \$20,000.*

3 **Sec. 9.** NRS 449.230 is hereby amended to read as follows:

4 449.230 **1.** Any authorized member or employee of the health
5 division may enter and inspect any building or premises at any time to
6 secure compliance with or prevent a violation of any provision of NRS
7 449.001 to 449.245, inclusive.

8 **2.** *The state fire marshal or his designee shall, upon receiving a*
9 *request from the health division or a written complaint concerning*
10 *compliance with the plans and requirements to respond to an emergency*
11 *adopted pursuant to subsection 7 of NRS 449.037:*

12 *(a) Enter and inspect a residential facility for groups; and*

13 *(b) Make recommendations regarding the plans and requirements*
14 *adopted pursuant to subsection 7 of NRS 449.037,*
15 *to ensure the safety of the residents of the facility in an emergency.*

16 **3.** *The state health officer or his designee shall:*

17 *(a) Upon receiving a written complaint concerning the health or*
18 *sanitation of a residential facility for groups, enter and inspect any*
19 *building or premises of a residential facility for groups; and*

20 *(b) Enter and inspect at least annually each building or the premises*
21 *of a residential facility for groups to ensure compliance with standards*
22 *for health and sanitation.*

23 **4.** *An authorized member or employee of the health division shall*
24 *enter and inspect any building or premises operated by a residential*
25 *facility for groups within 72 hours after the health division is notified*
26 *that a residential facility for groups is operating without a license.*

27 **Sec. 10.** Chapter 458 of NRS is hereby amended by adding thereto the
28 provisions set forth as sections 11 to 17, inclusive, of this act.

29 **Sec. 11. 1.** *No person, state or local government or agency thereof*
30 *may operate or maintain in this state a facility for the treatment of abuse*
31 *of alcohol or drugs without first obtaining a certificate for the facility*
32 *from the bureau.*

33 **2.** *A person that operates a facility for the treatment of abuse of*
34 *alcohol or drugs without a certificate issued by the bureau is guilty of a*
35 *misdemeanor.*

36 **Sec. 12.** *Each certificate issued by the bureau to a facility for the*
37 *treatment of abuse of alcohol or drugs expires on the first December 31*
38 *following its issuance and is renewable for 1 year upon reapplication and*
39 *payment of a renewal fee established pursuant to NRS 458.025.*

40 **Sec. 13.** *The bureau may:*

41 **1.** *Upon receipt of an application for certification as a facility for the*
42 *treatment of abuse of alcohol or drugs, conduct an investigation into the*
43 *premises, qualifications of personnel, methods of operation, policies and*

1 *purposes of any person proposing to engage in the operation of that*
2 *facility.*

3 *2. Upon receipt of a complaint against a facility for the treatment of*
4 *abuse of alcohol or drugs, conduct an investigation into the premises,*
5 *qualification of personnel, methods of operation, policies, procedures*
6 *and records of that facility.*

7 *3. Inspect a facility for the treatment of abuse of alcohol or drugs at*
8 *any time, with or without notice, as often as is necessary to ensure*
9 *compliance with all applicable regulations and standards adopted by the*
10 *bureau.*

11 **Sec. 14. 1. If a facility for the treatment of abuse of alcohol or**
12 **drugs violates any provisions related to its certification, including,**
13 **without limitation, any law of this state or any applicable condition,**
14 **standard or regulation adopted by the bureau, the bureau may:**

15 *(a) Suspend or revoke its certification; and*

16 *(b) Impose an administrative fine of not more than \$1,000 per day for*
17 *each violation, together with interest thereon at a rate not to exceed 10*
18 *percent per annum.*

19 *2. If a facility for the treatment of abuse of alcohol or drugs fails to*
20 *pay an administrative fine imposed pursuant to subsection 1, the bureau*
21 *may:*

22 *(a) Suspend the certificate of the facility until the administrative fine*
23 *is paid; and*

24 *(b) Collect court costs, reasonable attorney's fees and other costs*
25 *incurred to collect the administrative fine.*

26 *3. Any money collected as an administrative fine must be deposited*
27 *in the state general fund. If money is needed to pay the costs of an*
28 *investigation or inspection to carry out the provisions of NRS 458.010 to*
29 *458.360, inclusive, and sections 11 to 17, inclusive, of this act, the bureau*
30 *may present a claim to the state board of examiners for recommendation*
31 *to the interim finance committee.*

32 **Sec. 15. The bureau shall adopt such regulations as are necessary to**
33 **carry out the provisions of NRS 458.010 to 458.360, inclusive, and**
34 **sections 11 to 17, inclusive, of this act.**

35 **Sec. 16. 1. The bureau may bring an action in the name of the**
36 **state to enjoin any person, state or local government or agency thereof**
37 **from operating or maintaining a facility for the treatment of abuse of**
38 **alcohol or drugs:**

39 *(a) Without first obtaining a certificate therefor; or*

40 *(b) After such a certificate has been revoked or suspended by the*
41 *bureau.*

1 **2. It is sufficient in such an action to allege that the defendant did,**
2 **on a certain date and in a certain place, operate and maintain such a**
3 **facility without a certificate.**

4 **Sec. 17. The district attorney of the county in which a facility for the**
5 **treatment of abuse of alcohol or drugs is located shall, upon application**
6 **by the bureau, institute and conduct the prosecution of any action for a**
7 **violation of section 11 of this act.**

8 **Sec. 18.** NRS 458.010 is hereby amended to read as follows:

9 458.010 As used in NRS 458.010 to 458.360, inclusive, **and section**
10 **10 of this act,** unless the context requires otherwise:

11 1. "Alcohol and drug abuse program" means a project concerned with
12 education, prevention and treatment directed toward achieving the mental
13 and physical restoration of alcohol and drug abusers.

14 2. "Alcohol and drug abuser" means a person whose consumption of
15 alcohol or other drugs, or any combination thereof, interferes with or
16 adversely affects his ability to function socially or economically.

17 3. "Alcoholic" means any person who habitually uses alcoholic
18 beverages to the extent that he endangers the health, safety or welfare of
19 himself or any other person or group of persons.

20 4. "Bureau" means the bureau of alcohol and drug abuse in the
21 rehabilitation division of the department.

22 5. "Chief" means the chief of the bureau.

23 6. "Civil protective custody" means a custodial placement of a person
24 for the purpose of protecting his health or safety. Civil protective custody
25 does not have any criminal implication.

26 7. "Department" means the department of employment, training and
27 rehabilitation.

28 8. "Director" means the director of the department.

29 9. "Facility" means a physical structure used for the education,
30 prevention and treatment, including mental and physical restoration, of
31 alcohol and drug abusers. **The term includes a facility for the treatment of**
32 **abuse of alcohol or drugs.**

33 **10. "Facility for the treatment of abuse of alcohol or drugs" has the**
34 **meaning ascribed to it in NRS 449.00455.**

35 **Sec. 19.** NRS 458.025 is hereby amended to read as follows:

36 458.025 The bureau of alcohol and drug abuse is hereby created in the
37 rehabilitation division of the department. The bureau:

38 1. Shall formulate and operate a comprehensive state plan for alcohol
39 and drug abuse programs which must include:

40 (a) A survey of the need for education, prevention and treatment of
41 alcohol and drug abuse, including a survey of the facilities needed to
42 provide services and a plan for the development and distribution of
43 services and programs throughout the state.

1 (b) A plan for programs to educate the public in the problems of the
2 abuse of alcohol and other drugs.

3 (c) A survey of the need for trained teachers, persons who have
4 professional training in fields of health and others involved in the
5 education and prevention of alcohol and drug abuse and in the treatment
6 and recovery of alcohol and drug abusers, and a plan to provide the
7 necessary
8 treatment.

9 In developing and revising the state plan, the bureau shall consider, among
10 other things, the amount of money available from the Federal Government
11 for alcohol and drug abuse programs and the conditions attached to the
12 acceptance of the money, and the limitations of legislative appropriations
13 for alcohol and drug abuse programs.

14 2. Is responsible for coordinating efforts to carry out the state plan and
15 coordinating all state and federal financial support of alcohol and drug
16 abuse programs in the state. The bureau must be consulted in the planning
17 of projects and advised of all applications for grants from within the state
18 which are concerned with alcohol and drug abuse programs, and shall
19 review and advise concerning the applications.

20 3. Shall develop and publish standards of certification and may certify
21 or deny certification of any facilities, programs or personnel on the basis of
22 the standards, and publish a list of certified facilities, programs and
23 personnel. Any facilities, programs or personnel which are not certified are
24 ineligible to receive state and federal money for alcohol and drug abuse
25 programs. The chief ~~{shall}~~ :

26 (a) *Shall* establish requirements for continuing education for persons
27 certified as counselors and administrators of the programs ; and ~~{may}~~

28 (b) *May* set fees for certification of facilities, programs or personnel.
29 The fees must be calculated to produce the revenue estimated to cover the
30 costs related to the certifications . ~~{-but in no case may}~~ *Except for the fee*
31 *for the issuance or renewal of a certificate for a facility for the treatment*
32 *of abuse of alcohol or drugs,* the fee for a certificate *must not* exceed
33 \$100.

34 4. Upon request from a facility which is ~~{self-supported,}~~ *not required*
35 *to be certified by the bureau,* may certify the facility, its programs and
36 personnel and add them to the list of certified facilities, programs and
37 personnel.

38 **Sec. 20.** NRS 654.190 is hereby amended to read as follows:

39 654.190 1. The board may, after notice and hearing, impose an
40 administrative fine of not more than \$2,500 on and suspend or revoke the
41 license of any nursing facility administrator or administrator of a
42 residential facility for groups who:

43 (a) Is convicted of a felony, or of any offense involving moral turpitude.

1 (b) Has obtained his license by the use of fraud or deceit.

2 (c) Violates any of the provisions of this chapter.

3 (d) Aids or abets any person in the violation of any of the provisions of
4 NRS 449.001 to 449.240, inclusive, *or section 2 or 3 of this act*, as those
5 provisions pertain to a facility for skilled nursing, facility for intermediate
6 care or residential facility for groups.

7 (e) Violates any regulation of the board prescribing additional standards
8 of conduct for nursing facility administrators or administrators of
9 residential facilities for groups.

10 2. The board shall give a licensee against whom proceedings are
11 brought pursuant to this section written notice of a hearing not less than 10
12 days before the date of the hearing.

13 3. If discipline is imposed pursuant to this section, the costs of the
14 proceeding, including investigative costs and attorney's fees, may be
15 recovered by the board.

16 **Sec. 21.** NRS 449.0105, 449.249, 449.2493 and 449.2496 are hereby
17 repealed.

18 **Sec. 22.** 1. Notwithstanding the provisions of NRS 449.017, as
19 amended by this act, and NRS 449.030, a person who is operating a home
20 for individual residential care on October 1, 1999, which is registered with
21 the health division of the department of human resources pursuant to NRS
22 449.249, may continue to operate the home for individual residential care
23 pursuant to the provisions of NRS 449.0105 to 449.2496, inclusive, and
24 the regulations adopted pursuant thereto, as those provisions existed on
25 October 1, 1999, until January 1, 2000, without becoming licensed as a
26 residential facility for groups, but must either become licensed as a
27 residential facility for groups on or before January 1, 2000, or cease
28 operation on that date.

29 2. On or before November 1, 1999, the health division of the
30 department of human resources shall provide a copy of the provisions of
31 subsection 1 to each home for individual residential care that is registered
32 pursuant to NRS 449.249 on October 1, 1999.

33 3. The health and aging services divisions of the department of human
34 resources shall continue to perform the duties prescribed by the provisions
35 of NRS 449.0105 to 449.2496, inclusive, and the regulations adopted
36 pursuant thereto, as those provisions existed on October 1, 1999, as to each
37 home for individual residential care which continues to operate after
38 October 1, 1999, pursuant to subsection 1 until January 1, 2000, or the date
39 on which there are no such homes remaining, whichever is earlier.

40 **Sec. 23.** 1. All administrative regulations adopted by the state board
41 of health pursuant to the authority in subsection 1 of NRS 449.249 are
42 hereby declared to be void on January 1, 2000.

1 2. In preparing the supplements to the Nevada Administrative Code,
2 on or after January 1, 2000, the legislative counsel shall remove all
3 provisions declared void by subsection 1.

4 **Sec. 24.** 1. The amendatory provisions of sections 1 to 9, inclusive,
5 of this act do not apply to offenses that were committed before October 1,
6 1999.

7 2. The amendatory provisions of sections 10 to 19, inclusive, of this
8 act do not apply to offenses that were committed before January 1, 2000.

9 **Sec. 25.** 1. This section and sections 1 to 9, inclusive, and 20 to 24,
10 inclusive, of this act become effective on October 1, 1999.

11 2. Sections 10 to 19, inclusive, of this act become effective:

12 (a) Upon passage and approval for the purpose of adopting regulations
13 and performing any other preparatory administrative tasks that are
14 necessary to carry out the provisions of those sections; and

15 (b) On January 1, 2000, for all other purposes.

TEXT OF REPEALED SECTIONS

449.0105 “Home for individual residential care” defined. “Home for individual residential care” means a home in which a natural person furnishes food, shelter, assistance and limited supervision, for compensation, to not more than two persons who are aged, infirm, mentally retarded or handicapped, unless the persons receiving those services are related within the third degree of consanguinity or affinity to the person providing those services.

449.249 Establishment of procedure for registration; registration by health division.

1. The board shall adopt regulations establishing a procedure for the registration by the health division of homes for individual residential care.

2. The health division shall register any home for individual residential care that complies with the regulations adopted pursuant to subsection 1.

449.2493 Authority of health division and aging services division of department of human resources. The health division and the aging services division of the department of human resources may:

1. Investigate any complaints against a home for individual residential care and, when conducting such an investigation, may inspect the home during normal business hours, with or without notice.

2. Report to an appropriate state or local agency any violations of state or local laws or regulations discovered during an investigation conducted pursuant to this section.

449.2496 Registration required for operation; penalty.

1. A person shall not operate or maintain in this state a home for individual residential care unless the home is registered with the health division pursuant to NRS 449.249.
2. A person who commits a second or subsequent violation of subsection 1 is guilty of a misdemeanor.

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