

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; requiring licensure of homes for individual residential care in certain counties; providing civil penalties; 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 to 5, inclusive, 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.** *Except as otherwise provided in subsection 5, a person*
10 *must obtain a license from the board to operate a business that provides*
11 *referrals to residential facilities for groups.*
12 **2.** *The board shall adopt:*
13 **(a)** *Standards for the licensing of businesses that provide referrals to*
14 *residential facilities for groups;*

- (b) Standards relating to the fees charged by such businesses;*
- (c) Regulations governing the licensing of such businesses; and*
- (d) Regulations establishing requirements for training the employees of such businesses.*

3. A licensed nurse, social worker, physician or hospital, or a provider of geriatric care who is licensed as a nurse or social worker, may provide referrals to residential facilities for groups through a business that is licensed pursuant to this section. The board may, by regulation, authorize a public guardian or any other person it determines appropriate to provide referrals to residential facilities for groups through a business that is licensed pursuant to this section.

4. A business that is licensed pursuant to this section or an employee of such a business shall not:

(a) Refer a person to a residential facility for groups that is not licensed.

(b) Refer a person to a residential facility for groups that is owned by the same person who owns the business.

A person who violates the provisions of this subsection is liable for a civil penalty to be recovered by the attorney general in the name of the state board of health for the first offense of not more than \$10,000 and for a second or subsequent offense of not less than \$10,000 nor more than \$20,000. Unless otherwise required by federal law, the state board of health shall deposit all civil penalties collected pursuant to this section into a separate account in the state general fund to be used for the enforcement of this section and the protection of the health, safety, well-being and property of residences of residential facilities for groups.

5. This section does not apply to a medical facility that is licensed pursuant to NRS 449.001 to 449.240, inclusive, this section and sections 2 and 4 of this act, on October 1, 1999.

Sec. 4. If the health division suspends or revokes the license of a person who operates a residential facility for groups for abuse, neglect or isolation of the occupants of the facility, the division shall suspend or revoke the license of all residential facilities for groups operated by that person. The person who operates the facility shall move all of the persons who are receiving services in the residential facilities for groups to other licensed residential facilities for groups at his own expense.

Sec. 5. The provisions of NRS 449.249, 449.2493 and 449.2496 apply to homes for individual residential care in a county whose population is less than 100,000.

Sec. 6. NRS 449.017 is hereby amended to read as follows:

449.017 1. Except as otherwise provided in subsection 2, "residential facility for groups" means an establishment that furnishes food, shelter,

1 assistance and limited supervision to an aged, infirm, mentally retarded or
2 handicapped person.

3 2. The term does not include:

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

5 (b) ~~{A natural person who provides care for no more than two persons in~~
6 ~~his own home;~~

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

9 ~~(d) (c) A facility funded by a division or program of the department of~~
10 ~~human resources ; or~~

11 ~~(d) A home for individual residential care in a county whose~~
12 ~~population is less than 100,000.~~

13 **Sec. 7.** NRS 449.030 is hereby amended to read as follows:

14 449.030 1. No person, state or local government or agency thereof
15 may operate or maintain in this state any medical facility or facility for the
16 dependent without first obtaining a license therefor as provided in NRS
17 449.001 to 449.240, inclusive ~~;~~, *and sections 2, 3 and 4 of this act.*

18 2. Unless licensed as a facility for hospice care, a person, state or local
19 government or agency thereof shall not operate a program of hospice care
20 without first obtaining a license for the program from the board.

21 **Sec. 8.** NRS 449.037 is hereby amended to read as follows:

22 449.037 1. The board shall adopt:

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

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

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

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

34 2. The board shall adopt separate regulations governing the licensing
35 and operation of:

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

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

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

42 4. The board shall require that the practices and policies of each
43 medical facility or facility for the dependent provide adequately for the

1 protection of the health, safety and physical, moral and mental well-being
2 of each person accommodated in the facility.

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

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

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

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

16 (c) A written plan of care by a physician or registered nurse has been
17 established that:

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

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

23 (d) The prescribed medication is not administered by injection or
24 intravenously.

25 (e) The employee has successfully completed training and examination
26 approved by the health division regarding the authorized manner of
27 assistance.

28 ***7. The board shall, if it determines necessary, adopt regulations and***
29 ***requirements to ensure that each residential facility for groups and its***
30 ***staff are prepared to respond to an emergency, including, without***
31 ***limitation:***

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

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

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

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

1 **Sec. 9.** NRS 449.210 is hereby amended to read as follows:

2 449.210 ~~[Any]~~

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

6 **2. A person who operates a residential facility for groups without a**
7 **license issued by the health division:**

8 **(a) Is liable for a civil penalty to be recovered by the attorney general**
9 **in the name of the health division for the first offense of not more than**
10 **\$10,000 and for a second or subsequent offense of not less than \$10,000**
11 **nor more than \$20,000;**

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

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

18 **3. Unless otherwise required by federal law, the health division shall**
19 **deposit all civil penalties collected pursuant to this section into a separate**
20 **account in the state general fund to be used for the protection of the**
21 **health, safety and well-being of patients including residents of residential**
22 **facilities for groups.**

23 **Sec. 10.** NRS 449.230 is hereby amended to read as follows:

24 449.230 **1.** Any authorized member or employee of the health
25 division may enter and inspect any building or premises at any time to
26 secure compliance with or prevent a violation of any provision of NRS
27 449.001 to 449.245, inclusive.

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

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

33 **(b) Make recommendations regarding the adoption of plans and**
34 **requirements pursuant to subsection 7 of NRS 449.037,**
35 **to ensure the safety of the residents of the facility in an emergency.**

36 **3. The state health officer or his designee shall enter and inspect at**
37 **least annually each building or the premises of a residential facility for**
38 **groups to ensure compliance with standards for health and sanitation.**

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

Sec. 11. NRS 654.190 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

Sec. 11.5. Section 1 of Assembly Bill No. 167 of this session is hereby amended to read as follows:

Section 1. NRS 449.017 is hereby amended to read as follows:

449.017 1. Except as otherwise provided in subsection 2, "residential facility for groups" means an establishment that furnishes food, shelter, assistance and limited supervision to ~~the~~ **any** ~~an~~ aged, infirm, mentally retarded or handicapped person. ~~the~~ **or**

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

2. The term does not include:

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

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

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

(d) A facility funded by ~~the welfare~~ **a** division or ~~the division of mental health and developmental services~~ **program** of the department of human resources.

Sec. 12. 1. Notwithstanding the provisions of NRS 449.017, as amended by this act, and NRS 449.030, a person who is operating a home for individual residential care on October 1, 1999, in a county whose

1 population is 100,000 or more, which is registered with the health division
2 of the department of human resources pursuant to NRS 449.249, may
3 continue to operate the home for individual residential care pursuant to the
4 provisions of NRS 449.0105 to 449.2496, inclusive, and the regulations
5 adopted pursuant thereto, as those provisions existed on October 1, 1999,
6 until January 1, 2000, without becoming licensed as a residential facility for
7 groups, but must either become licensed as a residential facility for groups
8 on or before January 1, 2000, or cease operation on that date.

9 2. On or before November 1, 1999, the health division of the
10 department of human resources shall provide a copy of the provisions of
11 subsection 1 to each home for individual residential care that is registered
12 pursuant to NRS 449.249 on October 1, 1999, in a county whose
13 population is 100,000 or more.

14 3. The health and aging services divisions of the department of human
15 resources shall continue to perform the duties prescribed by the provisions
16 of NRS 449.0105 to 449.2496, inclusive, and the regulations adopted
17 pursuant thereto, as those provisions existed on October 1, 1999, as to each
18 home for individual residential care which continues to operate after
19 October 1, 1999, in a county whose population is 100,000 or more,
20 pursuant to subsection 1 until January 1, 2000, or the date on which there
21 are no such homes remaining in such counties, whichever is earlier.

22 **Sec. 13.** 1. This section and sections 1, 2, 4, 5 and 7 to 12, inclusive,
23 of this act become effective on October 1, 1999.

24 2. Section 6 of this act becomes effective at 12:01 a.m. on October 1,
25 1999.

26 3. Section 3 of this act becomes effective upon passage and approval
27 for the purpose of adopting standards and regulations, and on January 1,
28 2000, for all other purposes.