

ASSEMBLY BILL NO. 586—COMMITTEE ON COMMERCE AND LABOR

MARCH 15, 1999

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to health care. (BDR 40-870)

FISCAL NOTE: Effect on Local Government: No.
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; providing in skeleton form for the establishment of certain requirements relating to medical facilities; requiring the state board of health to enact certain regulations; requiring a medical facility to report certain information to the board; prohibiting a medical facility from taking certain actions against an employee of the facility in certain circumstances; 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 the provisions set forth as sections 2 to 13, inclusive, of this act.
- 3 **Sec. 2. 1. *A medical facility shall document and report to the board***
- 4 ***any adverse outcome to a patient that receives care from the facility.***
- 5 **2. *The board shall adopt regulations which:***
- 6 ***(a) Define the circumstances that constitute an adverse outcome to a***
- 7 ***patient that receives care from a medical facility. The definition must***
- 8 ***include, without limitation, such circumstances as:***
- 9 ***(1) An injury to or death of a patient;***
- 10 ***(2) An error in the administration of medication or a biological***
- 11 ***substance;***
- 12 ***(3) The development of decubitus ulcers by a patient; and***
- 13 ***(4) The development by a patient of an infection that is resistant to***
- 14 ***antibiotics.***
- 15 ***(b) Establish procedures for the documentation and reporting by***
- 16 ***medical facilities of adverse outcomes to patients that received care at the***
- 17 ***facilities.***

1 **3. The board shall prescribe a form that a medical facility shall use**
2 **to document and report an adverse outcome to a patient pursuant to**
3 **subsection 1.**

4 **4. The board shall review the regulations that it adopts pursuant to**
5 **this section at least once each year to determine whether it should repeal**
6 **or amend any of the regulations.**

7 **Sec. 3. 1. In accordance with regulations adopted by the board**
8 **pursuant to subsection 2, a medical facility shall report to the board the**
9 **number of employees assigned to each unit of service of the medical**
10 **facility that provides care to patients and the licensure status and the**
11 **number of hours worked by each of those employees. For each unit of**
12 **nursing service, the report must identify the employees who are assigned**
13 **to provide care directly to patients.**

14 **2. The board shall adopt regulations which:**

15 **(a) Define the units of service in a medical facility that provide care to**
16 **patients; and**

17 **(b) Establish procedures for the reporting of the information required**
18 **pursuant to subsection 1 by medical facilities.**

19 **3. The board shall prescribe a form that a medical facility shall use**
20 **to report the information required pursuant to subsection 1.**

21 **Sec. 4. 1. A medical facility shall maintain daily records of:**

22 **(a) The number of patients to which a unit of service of the facility**
23 **provided care; and**

24 **(b) The classification of those patients based on the severity of their**
25 **conditions, and shall report the information to the board.**

26 **2. The board shall prescribe a form that a medical facility shall use**
27 **to report the information required pursuant to subsection 1.**

28 **Sec. 5. A medical facility shall report all occupational injuries**
29 **sustained and diseases contracted by its employees to the board on the**
30 **form prescribed by and in the manner required by the board.**

31 **Sec. 6. The board shall publish annually a report that compiles the**
32 **information reported to it by medical facilities pursuant to sections 2 to 5,**
33 **inclusive, of this act.**

34 **Sec. 7. 1. Except as otherwise provided in subsection 2, all**
35 **information reported to the board by medical facilities pursuant to**
36 **sections 2 to 5, inclusive, of this act is public information. The board**
37 **shall provide this information to any person who requests the**
38 **information. The board may charge a reasonable fee for providing the**
39 **information.**

40 **2. Information must not be provided pursuant to subsection 1 in a**
41 **manner that discloses the name of a patient or other identifying**
42 **information.**

1 **Sec. 8. 1.** *A medical facility shall institute a system for classifying*
2 *its patients. The system must classify a patient based upon the severity of*
3 *the condition of the patient.*

4 **2.** *A medical facility shall keep and maintain a staffing plan that is*
5 *approved by the board. The staffing plan must be based on the system of*
6 *classification of patients established pursuant to subsection 1 and*
7 *conform to the ratios established by the board pursuant to section 9 of*
8 *this act.*

9 **Sec. 9. 1.** *The board shall establish annually by regulation the*
10 *following minimum ratios for the staffing of a medical facility:*

11 *(a) The ratio of licensed employees to patients for each unit of service*
12 *of the medical facility, as defined pursuant to section 3 of this act; and*

13 *(b) The ratio of licensed and nonlicensed employees to patients for all*
14 *units of service of the medical facility.*

15 **2.** *In establishing the ratios pursuant to subsection 1, the board shall*
16 *consider:*

17 *(a) Information provided by medical facilities pursuant to the*
18 *regulations adopted pursuant to sections 2, 3 and 4 of this act;*

19 *(b) Information derived from medical research;*

20 *(c) Comments received from the general public; and*

21 *(d) The existing requirements for staffing of medical facilities.*

22 **3.** *The ratio established by the board for an intensive care unit of*
23 *service must not be less than one registered nurse for each two patients.*

24 **Sec. 10. 1.** *A person shall not retaliate or discriminate in any*
25 *manner against an employee of a medical facility or a person acting on*
26 *behalf of the employee who in good faith:*

27 *(a) Disclosed information relating to the care or services provided by*
28 *or conditions at a medical facility;*

29 *(b) Advocated on behalf of a patient with respect to the care or*
30 *services provided by or conditions at a medical facility; or*

31 *(c) Initiated, cooperated or otherwise participated in an investigation*
32 *or proceeding conducted by a governmental entity relating to the care or*
33 *services provided by or conditions at a medical facility.*

34 **2.** *A person shall not retaliate or discriminate in any manner against*
35 *an employee of a medical facility because the employee has attempted to*
36 *or intends to engage in an action described in subsection 1.*

37 **3.** *A person shall not prohibit, restrict or attempt to prohibit or*
38 *restrict by contract, policy, procedure or any other manner the right of an*
39 *employee of a medical facility to engage in an action described in*
40 *subsection 1.*

41 **4.** *The identity of an employee of a medical facility who discloses*
42 *information in good faith to a governmental entity regarding the care or*

1 *services provided by or conditions at a medical facility is confidential and*
2 *must not be disclosed by any person unless:*

3 *(a) The employee consents in writing to the disclosure; or*

4 *(b) There is imminent danger to public health or safety or the threat of*
5 *physical harm.*

6 *5. The provisions of this act do not protect the disclosure of*
7 *information that would violate federal or state law or diminish or impair*
8 *the rights of a person to the continued protection of confidentiality of*
9 *communications provided by federal or state law.*

10 *6. For the purposes of this section, an employee of a medical facility*
11 *acts in "good faith" if he reasonably believes that:*

12 *(a) The information is true; and*

13 *(b) The information disclosed by the employee:*

14 *(1) Evidences a violation of any law, rule, regulation or generally*
15 *recognized professional or clinical standard; or*

16 *(2) Relates to care or services provided by or conditions at a*
17 *medical facility that potentially endanger one or more patients or*
18 *employees or the public.*

19 **Sec. 11. 1. An employee of a medical facility who believes that he**
20 **has been retaliated or discriminated against in violation of section 10 of**
21 **this act may file an action in a court of competent jurisdiction.**

22 **2. If a court determines that a violation of section 10 of this act has**
23 **occurred, the court shall award such damages as it determines to have**
24 **resulted from the violation, including, without limitation, compensatory**
25 **damages, reinstatement, reimbursement of any wages, salary,**
26 **employment benefits or other compensation denied to or lost by the**
27 **employee as a result of the violation, attorney's fees and costs, including,**
28 **without limitation, fees for expert witnesses and punitive damages, if the**
29 **facts warrant. The court shall award interest on the amount of damages**
30 **awarded at the prevailing rate.**

31 **3. The court may grant any equitable relief it considers appropriate,**
32 **including, without limitation, issue temporary, preliminary or permanent**
33 **injunctive relief.**

34 **4. An action must be brought pursuant to this section within 2 years**
35 **after the date of the last event constituting the alleged violation for which**
36 **the action is brought.**

37 **Sec. 12. 1. A person who violates the provisions of section 10 of**
38 **this act is subject to a civil penalty of not more than \$10,000 for each**
39 **violation.**

40 **2. A person who willfully and repeatedly violates section 10 of this**
41 **act, if the violation is related to:**

42 **(a) A pattern or practice of such violations;**

1 ***(b) The quality of care or services provided by or conditions at a***
2 ***medical facility that would likely lead to serious injury or death for***
3 ***patients or employees of the medical facility; or***

4 ***(c) Retaliation against an employee of a medical facility that could***
5 ***lead to serious injury or death,***
6 ***is guilty of a gross misdemeanor.***

7 **Sec. 13. 1. The board shall prepare and disseminate to medical**
8 **facilities:**

9 ***(a) A notice that sets forth and summarizes the provisions of sections***
10 ***10, 11 and 12 of this act.***

11 ***(b) A notice that sets forth summaries of or excerpts from the most***
12 ***recent report published by the board pursuant to section 6 of this act.***

13 **2. A medical facility shall post in a conspicuous place the notices**
14 ***prepared by the board pursuant to subsection 1. A medical facility that***
15 ***willfully fails to post such a notice is subject to a civil fine not to exceed***
16 ***\$100 for each day that it continues to willfully fail to post the notice.***

17 **Sec. 14.** The amendatory provisions of this act do not apply to
18 offenses that were committed before October 1, 1999.