

## 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.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to health care; requiring the establishment of a system for classifying patients and a staffing plan for certain medical facilities; requiring the state board of health to adopt certain regulations; requiring certain medical facilities to report certain information to the board; prohibiting certain acts by employees of certain medical facilities; providing 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    the provisions set forth as sections 2 to 15, inclusive, of this act.
- 3    **Sec. 2.** *For the purposes of sections 2 to 15, inclusive, of this act,*  
4    *“medical facility” is limited to a:*
- 5       1. *Facility for intermediate care;*  
6       2. *Facility for skilled nursing;*  
7       3. *Independent center for emergency medical care; or*  
8       4. *Hospital.*
- 9    **Sec. 3.** 1. *A medical facility shall document and report to the*  
10   *board any adverse outcome to a patient that receives care from the*  
11   *facility.*
- 12       2. *The board shall adopt regulations which:*
- 13       (a) *Define the circumstances that constitute an adverse outcome to a*  
14    *patient that receives care from a medical facility. The definition must*  
15    *include, without limitation, such circumstances as:*
- 16       (1) *An injury to or death of a patient;*

1     (2) An error in the administration of medication or a biological  
2 substance that results in harm or injury to the patient;

3     (3) The development of decubitus ulcers by a patient; and

4     (4) The development by a patient of an infection that is resistant to  
5 antibiotics,

6 while the patient was under the direct care of the medical facility.

7     (b) Establish procedures for the documentation and reporting by  
8 medical facilities of adverse outcomes to patients that received care at the  
9 facilities.

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

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

16    **Sec. 4. 1.** In accordance with regulations adopted by the board  
17 pursuant to subsection 2, a medical facility shall report to the board the  
18 number of employees assigned to each unit of service of the medical  
19 facility that provides care to patients and the licensure status and the  
20 number of hours worked by each of those employees. For each unit of  
21 nursing service, the report must identify the employees who are assigned  
22 to provide care directly to patients.

23    2. The board shall adopt regulations which:

24     (a) Define the units of service in a medical facility that provide care to  
25 patients; and

26     (b) Establish procedures for the reporting of the information required  
27 pursuant to subsection 1 by medical facilities.

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

30    **Sec. 5. 1.** A medical facility shall maintain daily records of:

31     (a) The number of patients to which a unit of service of the facility  
32 provided care; and

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

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

37    **Sec. 6.** A medical facility shall report all occupational injuries  
38 sustained and diseases contracted by its employees to the board on the  
39 form prescribed by and in the manner required by the board.

40    **Sec. 7.** The board shall publish annually a report that compiles the  
41 information reported to it by medical facilities pursuant to sections 3 to 6,  
42 inclusive, of this act. The report must include factors for adjusting risk  
43 based upon the population and patients served by the medical facility.

1   **Sec. 8. 1.** *Except as otherwise provided in subsection 2, all*  
2 *information reported to the board by medical facilities pursuant to*  
3 *sections 3 to 6, inclusive, of this act is public information. The board*  
4 *shall provide this information to any person who requests the*  
5 *information. The board may charge a reasonable fee for providing the*  
6 *information.*

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

10   **Sec. 9. 1.** *A medical facility shall institute a system for classifying*  
11 *its patients based on the severity of their conditions that establishes a*  
12 *method of determining required number of employees for each unit of*  
13 *service, patient and shift. The system must include:*

14   **(a)** *A method to determine the requirements for nursing care for a*  
15 *patient.*

16   **(b)** *An established method by which the amount of nursing care*  
17 *needed for each category of patient is validated for each unit of service*  
18 *and each shift.*

19   **(c)** *An established method to discern trends and patterns of delivery of*  
20 *nursing care by each unit of service, shift and level of licensed and*  
21 *nonlicensed employee.*

22   **(d)** *A mechanism by which the accuracy of the method described in*  
23 *paragraph (a) can be tested. The mechanism must address:*

24    **(1)** *The amount of nursing care needed by category of patient and*  
25 *pattern of delivery of care, reviewed on an annual basis or more often if*  
26 *warranted by changes in the number of patients or the severity of their*  
27 *conditions;*

28    **(2)** *The skill of the staff; and*

29    **(3)** *The model for delivery of care to patients.*

30   **(e)** *A method to determine allocation of staff resources based on the*  
31 *requirements for nursing care for each shift and each unit of service.*

32   **(f)** *A method by which the medical facility validates the reliability of*  
33 *the system for classifying patients for each shift and each unit of service.*

34   **2.** *The administrator of nursing services within the medical facility*  
35 *or a designee of the administrator shall develop a written staffing plan*  
36 *based on the need for care of patients determined by the system for*  
37 *classifying patients. The staffing plan must be developed and used for*  
38 *each unit of patient care and must specify the requirements for care of*  
39 *patients and the required level of staffing for licensed and nonlicensed*  
40 *employees. The plan must include:*

41    **(a)** *Requirements for staffing as determined by the system for*  
42 *classifying patients for each unit of service, documented each day and*  
43 *each shift.*

1     **(b) The actual staffing provided, documented each day and each shift.**

2     **(c) The variance between the required and actual staffing,**

3     **documented each day and each shift.**

4     **The plan must be retained for 7 years.**

5     **3. The system for classifying patients must be reviewed at least**  
6     **annually by a committee appointed by the administrator of nursing**  
7     **services to determine whether the system accurately measures needed**  
8     **care for patients. At least one-half of the members of the committee must**  
9     **be registered nurses who provide direct care to patients.**

10    **4. If a review pursuant to subsection 3 reveals that adjustments are**  
11    **necessary in the system for classifying patients to ensure accuracy in**  
12    **measuring needed care for patients, the adjustments must be made within**  
13    **30 days. The medical facility must have a policy and procedure to**  
14    **determine how such adjustments will be made. The policy and procedure**  
15    **must be retained for 7 years.**

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

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

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

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

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

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

33    **4. The identity of an employee of a medical facility who discloses**  
34    **information in good faith to a governmental entity regarding the care or**  
35    **services provided by or conditions at a medical facility is confidential and**  
36    **must not be disclosed by any person unless:**

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

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

40    **5. The provisions of sections 2 to 15, inclusive, of this act do not**  
41    **protect the disclosure of information that would violate federal or state**  
42    **law or diminish or impair the rights of a person to the continued**

1 *protection of confidentiality of communications provided by federal or*  
2 *state law.*

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

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

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

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

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

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

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

24 **3. The court may grant any equitable relief it considers appropriate,**  
25 **including, without limitation, issue temporary, preliminary or permanent**  
26 **injunctive relief.**

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

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

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

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

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

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

42 **Sec. 13. 1. The board shall prepare and disseminate to medical**  
43 **facilities:**

1     (a) A notice that sets forth and summarizes the provisions of sections  
2     10, 11 and 12 of this act.

3     (b) A notice that sets forth summaries of or excerpts from the most  
4     recent report published by the board pursuant to section 7 of this act.

5     2. A medical facility shall post in a conspicuous place the notices  
6     prepared by the board pursuant to subsection 1. A medical facility that  
7     willfully fails to post such a notice is subject to a civil fine not to exceed  
8     \$100 for each day that it continues to willfully fail to post the notice.

9     **Sec. 14.** 1. A person who fails to report or falsifies information, or  
10    coerces, threatens, intimidates or otherwise influences another person to  
11    fail to report or falsify information required to be reported pursuant to  
12    sections 3 to 6, inclusive, of this act, is subject to a civil penalty of not  
13    more than \$10,000 for each violation.

14    2. A person who willfully and repeatedly violates subsection 1, if the  
15    violation is related to:

16    (a) A pattern or practice of such violations; or

17    (b) The quality of care or services provided by or conditions at a  
18    medical facility that would likely lead to serious injury or death for  
19    patients or employees of the medical facility,  
20    is guilty of a gross misdemeanor, may be barred from accepting payment  
21    pursuant to a state-financed health insurance program and may have his  
22    license to operate a medical facility suspended or revoked.

23    **Sec. 15.** 1. A person in a position of responsibility for staffing in a  
24    medical facility who fails to ensure that there is sufficient staff to fulfill  
25    the requirements of a staffing plan developed pursuant to section 9 of  
26    this act is subject to a civil penalty of not more than \$10,000 for each  
27    violation.

28    2. A person who willfully and repeatedly violates subsection 1, or  
29    who coerces, threatens, intimidates or otherwise influences another  
30    person to fail to fulfill the requirements of a staffing plan developed  
31    pursuant to section 9 of this act, if the violation is related to:

32    (a) A pattern or practice of such violations; or

33    (b) The quality of care or services provided by or conditions at a  
34    medical facility that would likely lead to serious injury or death for  
35    patients or employees of the medical facility,  
36    is guilty of a gross misdemeanor, may be barred from accepting payment  
37    pursuant to a state-financed health insurance program and may have his  
38    license to operate a medical facility suspended or revoked.

39    **Sec. 16.** The amendatory provisions of this act do not apply to  
40    offenses that were committed before October 1, 1999.