

SENATE BILL NO. 163—COMMITTEE ON HUMAN RESOURCES AND FACILITIES

(ON BEHALF OF LEGISLATIVE COMMITTEE ON HEALTH CARE)

FEBRUARY 10, 1999

Referred to Committee on Human Resources and Facilities

SUMMARY—Provides for licensure of homes for individual residential care. (BDR 40-485)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: No.

~

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

AN ACT relating to personal care facilities; repealing the provisions providing for the registration of homes for individual residential care; providing that such homes must become licensed to continue to operate; 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.** NRS 449.249 is hereby amended to read as follows:
2 449.249 1. ~~{The board shall adopt regulations establishing a~~
3 ~~procedure for the registration by the health division of homes for individual~~
4 ~~residential care.~~
5 ~~—2.— The health division shall register any home for individual residential~~
6 ~~care that complies with the regulations adopted pursuant to subsection 1.}~~ **A**
7 **person, state or local government or agency thereof shall not operate a**
8 **home for individual residential care without first obtaining a license for**
9 **the home from the health division. An application for the license must be**
10 **made in the manner provided in NRS 449.040.**
11 **2. The state board of health shall adopt minimal standards for**
12 **licensing that provide for care and sanitation to prevent the abuse,**
13 **neglect or exploitation of residents of homes for individual residential**
14 **care.**

1 **Sec. 2.** NRS 449.2496 is hereby amended to read as follows:

2 449.2496 1. A person ~~{shall not operate or maintain in this state}~~ *who*
3 *operates or maintains* a home for individual residential care ~~{unless the~~
4 ~~home is registered with}~~ *without a license issued by* the health division
5 pursuant to NRS 449.249 ~~[-~~

6 ~~—2.—A person who commits a second or subsequent violation of~~
7 ~~subsection 1 is guilty of a misdemeanor.}~~ *is liable for a civil penalty, to be*
8 *recovered by the attorney general in the name of the health division, for*
9 *the first offense of \$10,000 and for a second or subsequent offense of not*
10 *less than \$10,000 nor more than \$20,000.*

11 2. *Unless otherwise required by federal law, the health division shall*
12 *deposit civil penalties collected pursuant to this section into a separate*
13 *account in the state general fund in the state treasury to be used for the*
14 *protection of the health, safety, well-being and property of patients,*
15 *including residents of facilities found deficient by the health division.*

16 3. *A person against whom a civil penalty is assessed by the court*
17 *pursuant to subsection 1:*

18 (a) *Shall move, at his own expense, all persons receiving services in*
19 *the home for individual residential care to a licensed home for individual*
20 *residential care.*

21 (b) *May not apply for a license to operate a home for individual*
22 *residential care until 6 months have elapsed since the penalty was*
23 *assessed.*

24 **Sec. 3.** NRS 449.700 is hereby amended to read as follows:

25 449.700 1. Every medical facility , ~~{and}~~ facility for the dependent
26 *and home for individual residential care* must provide the services
27 necessary to treat properly a patient in a particular case or must be able to
28 arrange the transfer of the patient to another facility *or home* which can
29 provide that care.

30 2. A patient may be transferred to another facility *or home* only if the
31 patient has received an explanation of the need to transfer him and the
32 alternatives available, unless his condition necessitates an immediate
33 transfer to a facility for a higher level of care and he is unable to understand
34 the explanation.

35 **Sec. 4.** NRS 449.705 is hereby amended to read as follows:

36 449.705 1. If a patient in a medical facility or facility for the
37 dependent is transferred to another medical facility or facility for the
38 dependent, a division facility or a physician licensed to practice medicine,
39 the facility shall forward a copy of the medical records of the patient, on or
40 before the date the patient is transferred, to the other medical facility or

1 facility for the dependent, the division facility or the physician. The facility
2 is not required to obtain the oral or written consent of the patient to forward
3 a copy of the medical records.

4 2. *If a person receiving services in a home for individual residential*
5 *care is transferred to another home, the home shall forward a copy of his*
6 *medical records to the other home in the manner provided in subsection*
7 *1.*

8 3. As used in this section:

9 (a) "Division facility" means any unit or subunit operated by a division
10 of the department of human resources pursuant to Title 39 of NRS.

11 (b) "Medical records" includes a medical history of the patient, a
12 summary of the current physical condition of the patient and a discharge
13 summary which contains the information necessary for the proper treatment
14 of the patient.

15 **Sec. 5.** NRS 449.710 is hereby amended to read as follows:

16 449.710 Every patient of a medical facility, ~~for~~ facility for the
17 dependent *or home for individual residential care* has the right to:

18 1. Receive information concerning any other medical or educational
19 facility or facility for the dependent associated with the facility at which he
20 is a patient which relates to his care.

21 2. Obtain information concerning the professional qualifications or
22 associations of the persons who are treating him.

23 3. Receive the name of the person responsible for coordinating his care
24 in the facility ~~or~~ *or home*.

25 4. Be advised if the facility in which he is a patient proposes to
26 perform experiments on patients which affect his own care or treatment.

27 5. Receive from his physician a complete and current description of his
28 diagnosis, plan for treatment and prognosis in terms which he is able to
29 understand. If it is not medically advisable to give this information to the
30 patient, the physician shall:

31 (a) Provide the information to an appropriate person responsible for the
32 patient; and

33 (b) Inform that person that he shall not disclose the information to the
34 patient.

35 6. Receive from his physician the information necessary for him to give
36 his informed consent to a procedure or treatment. Except in an emergency,
37 this information must not be limited to a specific procedure or treatment
38 and must include:

39 (a) A description of the significant medical risks involved;

1 (b) Any information on alternatives to the treatment or procedure if he
2 requests that information;

3 (c) The name of the person responsible for the procedure or treatment;
4 and

5 (d) The costs likely to be incurred for the treatment or procedure and
6 any alternative treatment or procedure.

7 7. Examine the bill for his care and receive an explanation of the bill,
8 whether or not he is personally responsible for payment of the bill.

9 8. Know the ~~facility's~~ regulations *of the facility or home* concerning
10 his conduct at the facility ~~or~~ *or home*.

11 **Sec. 6.** NRS 449.720 is hereby amended to read as follows:

12 449.720 Every patient of a medical facility, ~~for~~ facility for the
13 dependent *or home for individual residential care* has the right to:

14 1. Receive considerate and respectful care.

15 2. Refuse treatment to the extent permitted by law and to be informed
16 of the consequences of that refusal.

17 3. Refuse to participate in any medical experiments conducted at the
18 facility.

19 4. Retain his privacy concerning his program of medical care.

20 Discussions of a patient's care, consultation with other persons concerning
21 the patient, examinations or treatments, and all communications and
22 records concerning the patient, except as otherwise provided in NRS
23 108.640 and 449.705 and chapter 629 of NRS, are confidential. The patient
24 must consent to the presence of any person who is not directly involved
25 with his care during any examination, consultation or treatment.

26 5. Have any reasonable request for services reasonably satisfied by the
27 facility *or home* considering its ability to do so.

28 6. Receive continuous care from the facility ~~or~~ *or home*. The patient
29 must be informed:

30 (a) Of his appointments for treatment and the names of the persons
31 available at the facility *or home* for those treatments; and

32 (b) By his physician or an authorized representative of the physician, of
33 his need for continuing care.

34 **Sec. 7.** NRS 449.730 is hereby amended to read as follows:

35 449.730 Every medical facility, ~~and~~ facility for the dependent *and*
36 *home for individual residential care* shall inform each patient or his legal
37 representative, upon his admission to the facility ~~or~~ *or home*, of the
38 patient's rights as listed in NRS 449.700, 449.710 and 449.720.

1 **Sec. 8.** 1. Notwithstanding the provisions of NRS 449.249, as
2 amended by this act, and NRS 449.030, a person who is operating a Home
3 for Individual Residential Care on July 1, 1999, which is registered with the
4 Health Division of the Department of Human Resources pursuant to NRS
5 449.249, may continue to operate the Home for Individual Residential Care
6 pursuant to the provisions of NRS 449.0105 to 449.2496, inclusive, and the
7 regulations adopted pursuant thereto, as those provisions existed on July 1,
8 1999, until January 1, 2000, without becoming licensed as a Home for
9 Individual Residential Care, but must either become so licensed on or
10 before January 1, 2000, or cease operation on that date.

11 2. On or before August 1, 1999, the Health Division of the Department
12 of Human Resources shall provide a copy of the provisions of subsection 1
13 to each Home for Individual Residential Care that is registered pursuant to
14 NRS 449.249 on July 1, 1999.

15 3. The Health and Aging Services Divisions of the Department of
16 Human Resources shall continue to perform the duties prescribed by the
17 provisions of NRS 449.0105 to 449.2496, inclusive, and the regulations
18 adopted pursuant thereto, as those provisions existed on July 1, 1999, as to
19 each Home for Individual Residential Care which continues to operate after
20 July 1, 1999, pursuant to subsection 1 until January 1, 2000, or the date on
21 which there are no such remaining homes, whichever is earlier.

22 **Sec. 9.** This act becomes effective on July 1, 1999.