

CHAPTER.....

AN ACT relating to health care; revising the provisions governing the provision of care by a personal assistant for a person with a disability; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes an unlicensed personal assistant to perform certain basic services for a person with a disability to help him maintain independence, personal hygiene and safety. (NRS 629.091)

This bill authorizes a parent or guardian of a minor with a disability to direct the care given by the personal assistant. This bill also authorizes a parent, spouse, guardian or adult child of a person with a disability who suffers from a cognitive impairment to direct the care given by the personal assistant. Unless the services are provided in an educational setting, this bill prohibits a personal assistant from performing services for a person with a disability in the absence of that person’s parent or guardian, if the person with a disability is not able to direct his own services.

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

Section 1. NRS 629.031 is hereby amended to read as follows:
629.031 *Except as otherwise provided by specific statute:*

1. “Provider of health care” means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, chiropractor, athletic trainer, doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 2. NRS 629.091 is hereby amended to read as follows:

629.091 1. Except as otherwise provided in subsection 4, a provider of health care may authorize a person to act as a personal assistant to perform specific medical, nursing or home health care services for a person with a ~~physical~~ disability without obtaining any license required for a provider of health care or his assistant to perform the service if:

(a) The services to be performed are services that a person without a ~~physical~~ disability usually and customarily would personally perform without the assistance of a provider of health care;

(b) The provider of health care determines that the personal assistant has the knowledge, skill and ability to perform the services competently;

(c) The provider of health care determines that the procedures involved in providing the services are simple and the performance of such procedures by the personal assistant does not pose a substantial risk to the person with a ~~physical~~ disability;

(d) The provider of health care determines that the condition of the person with a ~~physical~~ disability is stable and predictable; and

(e) The personal assistant agrees with the provider of health care to refer the person with a ~~physical~~ disability to the provider of health care if:

(1) The condition of the person with a ~~physical~~ disability changes or a new medical condition develops;

(2) The progress or condition of the person with a ~~physical~~ disability after the provision of the service is different than expected;

(3) An emergency situation develops; or

(4) Any other situation described by the provider of health care develops.

2. A provider of health care that authorizes a personal assistant to perform certain services shall note in the medical records of the person with a ~~physical~~ disability who receives such services:

(a) The specific services that he has authorized the personal assistant to perform; and

(b) That the requirements of this section have been satisfied.

3. After a provider of health care has authorized a personal assistant to perform specific services for a person with a ~~physical~~ disability, no further authorization or supervision by the provider is required for the continued provision of those services.

4. A personal assistant shall not:

(a) Perform services pursuant to this section for a person with a ~~physical~~ disability who resides in a medical facility.

(b) Perform any medical, nursing or home health care service for a person with a ~~physical~~ disability which is not specifically authorized by a provider of health care pursuant to subsection 1.

(c) Except if the services are provided in an educational setting, perform services for a person with a disability in the absence of the parent or guardian of, or any other person legally responsible for, the person with a disability, if the person with a disability is not able to direct his own services.

5. A provider of health care who determines in good faith that a personal assistant has complied with and meets the requirements of this section is not liable for civil damages as a result of any act or



omission, not amounting to gross negligence, committed by him in making such a determination and is not liable for any act or omission of the personal assistant.

6. As used in this section:

(a) *“Guardian” means a person who has qualified as the guardian of a minor or an adult pursuant to testamentary or judicial appointment, but does not include a guardian ad litem.*

(b) *“Parent” means a natural or adoptive parent whose parental rights have not been terminated.*

(c) *“Personal assistant” means a person who, for compensation and under the direction of ~~fa~~:*

(1) A person with a ~~physical disability and for compensation,~~ disability;

(2) A parent or guardian of, or any other person legally responsible for, a person with a disability who is under the age of 18 years; or

(3) A parent, spouse, guardian or adult child of a person with a disability who suffers from a cognitive impairment,

↳ performs services for the person with a ~~physical~~ disability to help him maintain his independence, personal hygiene and safety.

~~fb~~ (d) *“Provider of health care” means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, a dentist, a registered nurse, a licensed practical nurse, a physical therapist or an occupational therapist.*

Sec. 3. NRS 632.340 is hereby amended to read as follows:

632.340 The provisions of NRS 632.315 do not prohibit:

1. Gratuitous nursing by friends or by members of the family of a patient.

2. The incidental care of the sick by domestic servants or persons primarily employed as housekeepers as long as they do not practice nursing within the meaning of this chapter.

3. Nursing assistance in the case of an emergency.

4. The practice of nursing by students enrolled in accredited schools of nursing or by graduates of those schools or courses pending the results of the first licensing examination scheduled by the Board following graduation. A student or graduate may not work as a nursing assistant unless he is certified to practice as a nursing assistant pursuant to the provisions of this chapter.

5. The practice of nursing in this State by any legally qualified nurse or nursing assistant of another state whose engagement requires him to accompany and care for a patient temporarily residing in this State during the period of one such engagement, not to exceed 6 months, if the person does not represent or hold himself



out as a nurse licensed to practice in this State or as a nursing assistant who holds a certificate to practice in this State.

6. The practice of any legally qualified nurse of another state who is employed by the United States Government or any bureau, division or agency thereof, while in the discharge of his official duties in this State.

7. Nonmedical nursing for the care of the sick, with or without compensation, if done by the adherents of, or in connection with, the practice of the religious tenets of any well-recognized church or religious denomination, if that nursing does not amount to the practice of practical or professional nursing as defined in NRS 632.017 and 632.018, respectively.

8. A personal assistant from performing services for a person with a ~~physical~~ disability pursuant to NRS 629.091.

