

ASSEMBLY BILL NO. 126—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE DEPARTMENT OF HUMAN
RESOURCES, DIRECTOR'S OFFICE)

FEBRUARY 23, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing provision of care by
personal assistant for person with disability.
(BDR 54-167)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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; 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:

1 Existing law authorizes an unlicensed personal assistant to perform certain
2 basic services for a person with a disability to help him maintain independence,
3 personal hygiene and safety. (NRS 629.091)
4 This bill authorizes a parent or guardian of a minor with a disability to direct
5 the care given by the personal assistant. This bill also authorizes a parent, spouse,
6 guardian or adult child of a person with a disability who suffers from a cognitive
7 impairment to direct the care given by the personal assistant. Unless the services
8 are provided in an educational setting, this bill prohibits a personal assistant from
9 performing services for a person with a disability in the absence of that person's
10 parent or guardian, if the person with a disability is not able to direct his own
11 services.

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

1 **Section 1.** NRS 629.031 is hereby amended to read as follows:
2 629.031 ***Except as otherwise provided by specific statute:***



* A B 1 2 6 R 1 *

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

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

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

13 629.091 1. Except as otherwise provided in subsection 4, a
14 provider of health care may authorize a person to act as a personal
15 assistant to perform specific medical, nursing or home health care
16 services for a person with a ~~physical~~ disability without obtaining
17 any license required for a provider of health care or his assistant to
18 perform the service if:

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

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

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

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

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

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

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

40 (3) An emergency situation develops; or

41 (4) Any other situation described by the provider of health
42 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 ~~the~~:

(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.



1 ~~[(b)]~~ (d) "Provider of health care" means a physician licensed
2 pursuant to chapter 630, 630A or 633 of NRS, a dentist, a registered
3 nurse, a licensed practical nurse, a physical therapist or an
4 occupational therapist.

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

6 632.340 The provisions of NRS 632.315 do not prohibit:

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

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

12 3. Nursing assistance in the case of an emergency.

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

19 5. The practice of nursing in this State by any legally qualified
20 nurse or nursing assistant of another state whose engagement
21 requires him to accompany and care for a patient temporarily
22 residing in this State during the period of one such engagement, not
23 to exceed 6 months, if the person does not represent or hold himself
24 out as a nurse licensed to practice in this State or as a nursing
25 assistant who holds a certificate to practice in this State.

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

30 7. Nonmedical nursing for the care of the sick, with or without
31 compensation, if done by the adherents of, or in connection with, the
32 practice of the religious tenets of any well-recognized church or
33 religious denomination, if that nursing does not amount to the
34 practice of practical or professional nursing as defined in NRS
35 632.017 and 632.018, respectively.

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

