

Assembly Bill No. 454—Committee on
Health and Human Services

CHAPTER.....

AN ACT relating to mental retardation; providing for the regulation of certain services provided to mentally retarded persons in their homes to maximize independence; requiring certification to provide such services; requiring the Legislative Committee on Health Care to review certain regulations concerning providers of supported living arrangement services; exempting certain persons who provide supported living arrangement services from the state certification and licensing requirements for practicing nursing in this State; and providing other matters properly relating thereto.

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

Section 1. Chapter 435 of NRS is hereby amended by adding thereto the provisions set forth in sections 2 to 12, inclusive, of this act.

Sec. 2. *As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Certificate” means a certificate to provide supported living arrangement services that is issued pursuant to sections 2 to 12, inclusive, of this act and the regulations adopted pursuant to sections 2 to 12, inclusive, of this act.*

Sec. 4. *“Supported living arrangement services” means flexible, individualized services provided in the home, for compensation, to a mentally retarded person or a person with a related condition who is served by the Division that are designed and coordinated to assist the person in maximizing his independence, including, without limitation, training and habilitation services.*

Sec. 5. 1. *No partnership, firm, corporation, association, state or local government or agency thereof may provide supported living arrangement services in this State without first obtaining a certificate from the Division.*

2. *No natural person other than a person who is employed by an entity listed in subsection 1 may provide supported living arrangement services in this State without first obtaining a certificate from the Division.*

Sec. 6. *1. The Division shall adopt regulations governing supported living arrangement services, including, without limitation, regulations that set forth:*

(a) Standards for the provision of quality care by providers of supported living arrangement services;

(b) The requirements for the issuance and renewal of a certificate to provide supported living arrangement services; and

(c) The rights of consumers of supported living arrangement services, including, without limitation, the right of a consumer to file a complaint and the procedure for filing such a complaint.

2. The Division may enter into such agreements with public and private agencies as it deems necessary for the provision of supported living arrangement services.

3. For each regulation adopted pursuant to sections 2 to 12, inclusive, of this act, and submitted to the Legislative Counsel pursuant to NRS 233B.067 for review by the Legislative Commission, the Division shall set forth in the informational statement prepared pursuant to NRS 233B.066 that accompanies the regulation any supported living arrangement services that the regulation authorizes persons to provide pursuant to NRS 632.340 when the persons would otherwise be prohibited from providing such services pursuant to NRS 632.315.

Sec. 7. *1. The Division may, by regulation, prescribe a fee for:*

(a) The issuance of a certificate; and

(b) The renewal of a certificate.

2. A fee prescribed pursuant to subsection 1 must be calculated to produce the revenue estimated to cover the costs related to the certifications and renewals, but in no case may a fee for a certificate or renewal of a certificate exceed the actual cost to the Division of issuing or renewing the certificate, as applicable.

Sec. 8. *The Division may:*

1. Upon receipt of an application for a certificate, conduct an investigation into the qualifications of personnel, methods of operation, policies and purposes of any natural person, partnership, firm, corporation, association, state or local government or agency thereof proposing to provide supported living arrangement services;

2. Upon receipt of a complaint against a natural person, partnership, firm, corporation, association, state or local government or agency thereof providing supported living arrangement services, except for a complaint concerning the cost of services, conduct an investigation into the qualifications of personnel, methods of operation, policies, procedures and records of the provider of services; and

3. *Employ such professional, technical and clerical assistance as it deems necessary to carry out the provisions of sections 2 to 12, inclusive, of this act.*

Sec. 9. *1. The Division may bring an action in the name of the State to enjoin any natural person, partnership, firm, corporation, association, state or local government or agency thereof from providing supported living arrangement services:*

(a) Without first obtaining a certificate from the Division; or
(b) After his or its certificate has been revoked or suspended by the Division.

2. It is sufficient in such an action to allege that the defendant did, on a certain date and in a certain place, provide supported living arrangement services without a certificate.

Sec. 10. *1. A natural person who applies for the issuance or renewal of a certificate must submit to the Division the statement prescribed by the Welfare Division of the Department pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the certificate; or
(b) A separate form prescribed by the Division.

3. A certificate may not be issued or renewed by the Division if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 11. *The application of a natural person who applies for the issuance of a certificate must include the social security number of the applicant.*

Sec. 12. *1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension*

of all professional, occupational and recreational licenses, certificates and permits issued to a natural person who is the holder of a certificate, the Division shall deem the certificate issued to that person to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the holder of the certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate a certificate that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate was suspended stating that the person whose certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 13. NRS 439B.225 is hereby amended to read as follows:

439B.225 1. As used in this section, "licensing board" means any *division or* board empowered to adopt standards for licensing or registration or for the renewal of licenses or certificates of registration pursuant to chapter 449, 625A, 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 639, 640, 640A, 641, 641A, 641B, 641C, 652 or 654 of NRS ~~§~~ *or sections 2 to 12, inclusive, of this act.*

2. The Committee shall review each regulation that a licensing board proposes or adopts that relates to standards for licensing or registration or to the renewal of a license or certificate of registration issued to a person or facility regulated by the board, giving consideration to:

(a) Any oral or written comment made or submitted to it by members of the public or by persons or facilities affected by the regulation;

(b) The effect of the regulation on the cost of health care in this State;

(c) The effect of the regulation on the number of licensed or registered persons and facilities available to provide services in this State; and

(d) Any other related factor the Committee deems appropriate.

3. After reviewing a proposed regulation, the Committee shall notify the agency of the opinion of the Committee regarding the advisability of adopting or revising the proposed regulation.

4. The Committee shall recommend to the Legislature as a result of its review of regulations pursuant to this section any appropriate legislation.

Sec. 14. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 15 and 16 of this act.

Sec. 15. *“Provider of supported living arrangement services” means a natural person who or a partnership, firm, corporation, association, state or local government or agency thereof that has been issued a certificate pursuant to sections 2 to 12, inclusive, of this act and the regulations adopted pursuant to sections 2 to 12, inclusive, of this act.*

Sec. 16. *“Supported living arrangement services” has the meaning ascribed to it in section 4 of this act.*

Sec. 17. NRS 449.001 is hereby amended to read as follows:

449.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.019, inclusive, *and sections 15 and 16 of this act* have the meanings ascribed to them in those sections.

Sec. 18. NRS 449.0015 is hereby amended to read as follows:

449.0015 “Agency to provide nursing in the home” means any person or governmental organization which provides in the home, through its employees or by contractual arrangement with other persons, skilled nursing and assistance and training in health and housekeeping skills. *The term does not include a provider of supported living arrangement services during any period in which the provider of supported living arrangement services is engaged in providing supported living arrangement services.*

Sec. 19. NRS 449.0105 is hereby amended to read as follows:

449.0105 “Home for individual residential care” means a home in which a natural person furnishes food, shelter, assistance and limited supervision, for compensation, to not more than two persons who are aged, infirm, mentally retarded or handicapped, unless the persons receiving those services are related within the third degree of consanguinity or affinity to the person providing those services. The term does not include ~~the~~:

1. A halfway house for recovering alcohol and drug abusers ~~the~~;
; or

2. *A home in which supported living arrangement services are provided by a provider of supported living arrangement services during any period in which the provider of supported living arrangement services is engaged in providing supported living arrangement services.*

Sec. 20. NRS 449.0153 is hereby amended to read as follows:

449.0153 “Nursing pool” means a person or agency which provides for compensation, through its employees or by contractual arrangement with other persons, nursing services to any natural person, medical facility or facility for the dependent. The term does not include ~~the~~:

1. *An* independent contractor who provides such services without the assistance of employees ~~{or a}~~;

2. *A* nursing pool based in a medical facility or facility for the dependent ~~H~~; *or*

3. *A provider of supported living arrangement services during any period in which the provider of supported living arrangement services is engaged in providing supported living arrangement services.*

Sec. 21. 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.

9. *A natural person from providing supported living arrangement services if:*

(a) That person has been issued a certificate pursuant to sections 2 to 12, inclusive, of this act and the regulations adopted pursuant to sections 2 to 12, inclusive, of this act; or

(b) That person is employed or retained as an independent contractor by a partnership, firm, corporation or association, state or local government or agency thereof that has been issued a certificate pursuant to sections 2 to 12, inclusive, of this act and the regulations adopted pursuant to sections 2 to 12, inclusive of this act.

➡ As used in this subsection, “supported living arrangement services” has the meaning ascribed to it in section 4 of this act.

Sec. 22. Notwithstanding the provisions of section 5 of this act, a person, partnership, firm, corporation, association, state or local government or agency thereof is not required to possess a certificate issued by the Division of Mental Health and Developmental Services of the Department of Human Resources to provide supported living arrangement services in this State before January 1, 2006, unless the Division establishes, by regulation, an earlier date for compliance with section 5 of this act.

Sec. 23. 1. This section and section 22 of this act become effective upon passage and approval.

2. Sections 1 to 21, inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2005, for all other purposes.

3. Sections 10, 11 and 12 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with the subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➡ are repealed by the Congress of the United States.

