

ASSEMBLY BILL NO. 454—COMMITTEE ON  
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE DIVISION OF MENTAL HEALTH  
AND DEVELOPMENTAL SERVICES)

MARCH 25, 2005

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes concerning provision of  
supported living arrangement services.  
(BDR 39-236)

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 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*



1 *in sections 3 and 4 of this act have the meanings ascribed to them*  
2 *in those sections.*

3 **Sec. 3.** *“Certificate” means a certificate to provide supported*  
4 *living arrangement services that is issued pursuant to sections 2 to*  
5 *12, inclusive, of this act and the regulations adopted pursuant to*  
6 *sections 2 to 12, inclusive, of this act.*

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

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

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

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

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

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

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

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

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

37 *(a) The issuance of a certificate; and*

38 *(b) The renewal of a certificate.*

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

44 **Sec. 8.** *The Division may:*



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

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

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

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

21         (a) Without first obtaining a certificate from the Division; or

22         (b) After his or its certificate has been revoked or suspended by  
23 the Division.

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

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

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

34         (a) The application or any other forms that must be submitted  
35 for the issuance or renewal of the certificate; or

36         (b) A separate form prescribed by the Division.

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

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

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



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

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

13    **Sec. 12.** *1. If the Division receives a copy of a court order*  
14 *issued pursuant to NRS 425.540 that provides for the suspension*  
15 *of all professional, occupational and recreational licenses,*  
16 *certificates and permits issued to a natural person who is the*  
17 *holder of a certificate, the Division shall deem the certificate*  
18 *issued to that person to be suspended at the end of the 30th day*  
19 *after the date the court order was issued unless the Division*  
20 *receives a letter issued to the holder of the certificate by the district*  
21 *attorney or other public agency pursuant to NRS 425.550 stating*  
22 *that the holder of the certificate has complied with the subpoena*  
23 *or warrant or has satisfied the arrearage pursuant to*  
24 *NRS 425.560.*

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

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

33    439B.225   1. As used in this section, "licensing board" means  
34 any *division or* board empowered to adopt standards for licensing or  
35 registration or for the renewal of licenses or certificates of  
36 registration pursuant to chapter 449, 625A, 630, 630A, 631, 632,  
37 633, 634, 634A, 635, 636, 637, 637A, 637B, 639, 640, 640A, 641,  
38 641A, 641B, 641C, 652 or 654 of NRS ~~§~~ *or sections 2 to 12,*  
39 *inclusive, of this act.*

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



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

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

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

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

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

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

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

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

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

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

27 449.001 As used in this chapter, unless the context otherwise  
28 requires, the words and terms defined in NRS 449.0015 to 449.019,  
29 inclusive, *and sections 15 and 16 of this act* have the meanings  
30 ascribed to them in those sections.

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

32 449.0015 “Agency to provide nursing in the home” means any  
33 person or governmental organization which provides in the home,  
34 through its employees or by contractual arrangement with other  
35 persons, skilled nursing and assistance and training in health and  
36 housekeeping skills. *The term does not include a provider of*  
37 *supported living arrangement services during any period in which*  
38 *the provider of supported living arrangement services is engaged*  
39 *in providing supported living arrangement services.*

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

41 449.0105 “Home for individual residential care” means a home  
42 in which a natural person furnishes food, shelter, assistance and  
43 limited supervision, for compensation, to not more than two persons  
44 who are aged, infirm, mentally retarded or handicapped, unless the  
45 persons receiving those services are related within the third degree



1 of consanguinity or affinity to the person providing those services.  
2 The term does not include ~~{a}~~ :

3 1. A halfway house for recovering alcohol and drug abusers ~~{ }~~  
4 ; or

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

10 **Sec. 20.** NRS 449.0153 is hereby amended to read as follows:  
11 449.0153 "Nursing pool" means a person or agency which  
12 provides for compensation, through its employees or by contractual  
13 arrangement with other persons, nursing services to any natural  
14 person, medical facility or facility for the dependent. The term does  
15 not include ~~{an}~~ :

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

18 2. A nursing pool based in a medical facility or facility for the  
19 dependent ~~{ }~~ ; or

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

24 **Sec. 21.** NRS 632.340 is hereby amended to read as follows:  
25 632.340 The provisions of NRS 632.315 do not prohibit:

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

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

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

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

38 5. The practice of nursing in this State by any legally qualified  
39 nurse or nursing assistant of another state whose engagement  
40 requires him to accompany and care for a patient temporarily  
41 residing in this State during the period of one such engagement, not  
42 to exceed 6 months, if the person does not represent or hold himself  
43 out as a nurse licensed to practice in this State or as a nursing  
44 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:



- 1 (a) Have failed to comply with the subpoena or warrant relating
- 2 to a proceeding to determine the paternity of a child or to establish
- 3 or enforce an obligation for the support of a child; or
- 4 (b) Are in arrears in the payment for the support of one or more
- 5 children,
- 6 ➡ are repealed by the Congress of the United States.

