

SENATE BILL NO. 68—SENATOR TITUS

FEBRUARY 16, 2005

Referred to Committee on Human Resources and Education

SUMMARY—Revises provisions concerning licensure of facilities which provide surgical treatment for refractive errors of eye. (BDR 40-263)

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

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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 medical facilities; changing the term “facility for refractive laser surgery” to “facility for refractive surgery” to require licensure of all facilities which provide surgical treatment for refractive errors of the eye; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law regulates the operation of facilities for refractive laser surgery.
- 2 (Chapter 449 of NRS) These facilities provide limited medical services for the
- 3 evaluation of patients with refractive errors of the eye and surgical laser treatment
- 4 of those patients. (NRS 449.00387)
- 5 This bill expands the application of existing law to regulate facilities that
- 6 perform other types of surgical treatments for refractive errors of the eye.

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

- 1 **Section 1.** NRS 449.00387 is hereby amended to read as
- 2 follows:
- 3 449.00387 “Facility for refractive ~~laser~~ surgery” means a
- 4 freestanding facility that provides limited medical services for the
- 5 evaluation of patients with refractive errors of the eye and the
- 6 surgical treatment of those patients , *including, without limitation,*
- 7 *surgical treatment* by ~~{photorefractive keratectomy or laser}~~ :
- 8 1. *Photorefractive keratectomy;*



1 2. *Laser* in situ keratomeleusis ~~H~~;
2 3. *Conductive keratoplasty*;
3 4. *Implantation of an intraocular lens*; and
4 5. *Any other available technology, technique or procedure*
5 *which surgically treats refractive errors of the eye and which has*
6 *been approved by the United States Food and Drug*
7 *Administration.*

8 **Sec. 2.** NRS 449.0151 is hereby amended to read as follows:

9 449.0151 "Medical facility" includes:

- 10 1. A surgical center for ambulatory patients;
- 11 2. An obstetric center;
- 12 3. An independent center for emergency medical care;
- 13 4. An agency to provide nursing in the home;
- 14 5. A facility for intermediate care;
- 15 6. A facility for skilled nursing;
- 16 7. A facility for hospice care;
- 17 8. A hospital;
- 18 9. A psychiatric hospital;
- 19 10. A facility for the treatment of irreversible renal disease;
- 20 11. A rural clinic;
- 21 12. A nursing pool;
- 22 13. A facility for modified medical detoxification;
- 23 14. A facility for refractive ~~Haser~~ surgery; and
- 24 15. A mobile unit.

25 **Sec. 3.** NRS 449.037 is hereby amended to read as follows:

26 449.037 1. The Board shall adopt:

27 (a) Licensing standards for each class of medical facility or
28 facility for the dependent covered by NRS 449.001 to 449.240,
29 inclusive, and for programs of hospice care.

30 (b) Regulations governing the licensing of such facilities and
31 programs.

32 (c) Regulations governing the procedure and standards for
33 granting an extension of the time for which a natural person may
34 provide certain care in his home without being considered a
35 residential facility for groups pursuant to NRS 449.017. The
36 regulations must require that such grants are effective only if made
37 in writing.

38 (d) Regulations establishing a procedure for the indemnification
39 by the Health Division, from the amount of any surety bond or other
40 obligation filed or deposited by a facility for refractive ~~Haser~~
41 surgery pursuant to NRS 449.068 or 449.069, of a patient of the
42 facility who has sustained any damages as a result of the bankruptcy
43 of or any breach of contract by the facility.



(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.001 to 449.240, inclusive.

2. The Board shall adopt separate regulations governing the licensing and operation of:

(a) Facilities for the care of adults during the day; and

(b) Residential facilities for groups,

↳ which provide care to persons with Alzheimer's disease.

3. The Board shall adopt separate regulations for:

(a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.

(b) The licensure of facilities for refractive ~~laser~~ surgery which take into consideration the unique factors of operating such a facility.

(c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. The Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

(a) The ultimate user's physical and mental condition is stable and is following a predictable course.

(b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) The prescribed medication is not administered by injection or intravenously.



1 (e) The employee has successfully completed training and
2 examination approved by the Health Division regarding the
3 authorized manner of assistance.

4 7. The Board shall adopt separate regulations governing the
5 licensing and operation of residential facilities for groups which
6 provide assisted living services. The regulations must prohibit a
7 residential facility for groups from claiming that it provides
8 "assisted living services" unless:

9 (a) Before authorizing a person to move into the facility, the
10 facility makes a full written disclosure to the person regarding what
11 services of personalized care will be available to the person and the
12 amount that will be charged for those services throughout the
13 resident's stay at the facility.

14 (b) The residents of the facility reside in their own living units
15 which:

16 (1) Contain toilet facilities and a sleeping area or bedroom;
17 and

18 (2) Are shared with another occupant only upon consent of
19 both occupants.

20 (c) The facility provides personalized care to the residents of the
21 facility and the general approach to operating the facility
22 incorporates these core principles:

23 (1) The facility is designed to create a residential
24 environment that actively supports and promotes each resident's
25 quality of life and right to privacy;

26 (2) The facility is committed to offering high-quality
27 supportive services that are developed by the facility in
28 collaboration with the resident to meet the resident's individual
29 needs;

30 (3) The facility provides a variety of creative and innovative
31 services that emphasize the particular needs of each individual
32 resident and his personal choice of lifestyle;

33 (4) The operation of the facility and its interaction with its
34 residents supports, to the maximum extent possible, each resident's
35 need for autonomy and the right to make decisions regarding his
36 own life;

37 (5) The operation of the facility is designed to foster a social
38 climate that allows the resident to develop and maintain personal
39 relationships with fellow residents and with persons in the general
40 community;

41 (6) The facility is designed to minimize and is operated in a
42 manner which minimizes the need for its residents to move out of
43 the facility as their respective physical and mental conditions change
44 over time; and



(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.

8. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;

(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;

(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and

(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.

Sec. 4. NRS 449.068 is hereby amended to read as follows:

449.068 1. Except as otherwise provided in NRS 449.069, each facility for refractive ~~laser~~ surgery shall, when applying for a license or renewing a license, file with the Administrator of the Health Division a surety bond:

(a) If the facility employs less than 7 employees, in the amount of \$10,000;

(b) If the facility employs at least 7 but not more than 25 employees, in the amount of \$50,000; or

(c) If the facility employs more than 25 employees, in the amount of \$100,000.

2. A bond filed pursuant to this section must be executed by the facility as principal and by a surety company as surety. The bond must be payable to the Health Division and must be conditioned to provide indemnification to a patient of the facility who the Administrator of the Health Division or his designee determines has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

3. Except when a surety is released, the surety bond must cover the period of the initial license to operate or the period of the renewal, as appropriate.

4. A surety on any bond filed pursuant to this section may be released after the surety gives 30 days' written notice to the Administrator of the Health Division, but the release does not discharge or otherwise affect any claim filed by a patient for any



1 damages sustained as a result of the bankruptcy of or any breach of
2 contract by the facility while the bond was in effect.

3 5. The license of a facility for refractive ~~laser~~ surgery is
4 suspended by operation of law when the facility is no longer
5 covered by a surety bond as required by this section or by a
6 substitute for the surety bond pursuant to NRS 449.069. The
7 Administrator of the Health Division shall give the facility at least
8 20 days' written notice before the release of the surety or the
9 substitute for the surety, to the effect that the license will be
10 suspended by operation of law until another surety bond is filed or
11 substitute for the surety bond is deposited in the same manner and
12 amount as the bond or substitute being terminated.

13 **Sec. 5.** NRS 449.069 is hereby amended to read as follows:

14 449.069 1. As a substitute for the surety bond required
15 pursuant to NRS 449.068, a facility for refractive ~~laser~~ surgery
16 may deposit with any bank or trust company authorized to do
17 business in this State, upon approval of the Administrator of the
18 Health Division:

19 (a) An obligation of a bank, savings and loan association, thrift
20 company or credit union licensed to do business in this State;

21 (b) Bills, bonds, notes, debentures or other obligations of the
22 United States or any agency or instrumentality thereof, or
23 guaranteed by the United States; or

24 (c) Any obligation of this State or any city, county, town,
25 township, school district or other instrumentality of this State, or
26 guaranteed by this State, in an aggregate amount, based upon
27 principal amount or market value, whichever is lower.

28 2. The obligations of a bank, savings and loan association,
29 thrift company or credit union must be held to secure the same
30 obligation as would the surety bond required by NRS 449.068. With
31 the approval of the Administrator of the Health Division, the facility
32 may substitute other suitable obligations for those deposited, which
33 must be assigned to the Health Division and are negotiable only
34 upon approval of the Administrator of the Health Division.

35 3. Any interest or dividends earned on the deposit accrue to the
36 account of the facility.

37 4. The deposit must be an amount at least equal to the surety
38 bond required by NRS 449.068 and must state that the amount may
39 not be withdrawn except by the direct and sole order of the
40 Administrator of the Health Division.

41 **Sec. 6.** This act becomes effective upon passage and approval
42 for the purposes of adopting regulations and on October 1, 2005, for
43 all other purposes.



