

SENATE BILL NO. 474—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE DIVISION OF HEALTH
CARE FINANCING AND POLICY)

MARCH 26, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Limits the liability of a public agency that pays for the services of a personal assistant for a person with a disability. (BDR 54-600)

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; limiting the liability of a public agency that pays for the services of a personal assistant for a person with a disability; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law provides for personal assistants to serve persons with disabilities
2 under certain circumstances, and limits the liability of providers of health care who
3 determine that such personal assistants have complied with the legal requirements
4 relating to such service. (NRS 629.091) **Section 1** of this bill provides a similar
5 limitation of liability for public agencies that provide payment for such service.

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

- 1 **Section 1.** NRS 629.091 is hereby amended to read as follows:
2 629.091 1. Except as otherwise provided in subsection 4, a
3 provider of health care may authorize a person to act as a personal
4 assistant to perform specific medical, nursing or home health care
5 services for a person with a disability without obtaining any license
6 required for a provider of health care or his assistant to perform the
7 service if:



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(a) The services to be performed are services that a person without a 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 disability;

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

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

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

(2) The progress or condition of the person with a 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 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 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 disability who resides in a medical facility.

(b) Perform any medical, nursing or home health care service for a person with a 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



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

4 6. *A public agency that provides payment for the services of a*
5 *personal assistant is not liable for civil damages as a result of any*
6 *act or omission, not amounting to gross negligence, committed by*
7 *the public agency in determining the need for services or making*
8 *such payment and is not liable for any act or omission of the*
9 *personal assistant.*

10 7. As used in this section:

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

14 (b) "Parent" means a natural or adoptive parent whose parental
15 rights have not been terminated.

16 (c) "Personal assistant" means a person who, for compensation
17 and under the direction of:

18 (1) A person with a disability;

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

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

24 ➤ performs services for the person with a disability to help him
25 maintain his independence, personal hygiene and safety.

26 (d) "Provider of health care" means a physician licensed
27 pursuant to chapter 630, 630A or 633 of NRS, a dentist, a registered
28 nurse, a licensed practical nurse, a physical therapist or an
29 occupational therapist.

