

ASSEMBLY BILL NO. 20—COMMITTEE ON  
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE DEPARTMENT OF  
HEALTH AND HUMAN SERVICES)

PREFILED DECEMBER 5, 2008

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing homes for individual residential care and other facilities and agencies licensed by the Health Division of the Department of Health and Human Services. (BDR 40-335)

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 care facilities; requiring a licensee or applicant for a license to operate a home for individual residential care to comply with certain provisions concerning the criminal history of the licensee or applicant and any employee or independent contractor of the home; revising provisions concerning crimes which constitute grounds for the revocation, denial or suspension of a license to operate such a home or certain other agencies and facilities or the termination of their employees or independent contractors; requiring such a home to file a surety bond with the Administrator of the Health Division of the Department of Health and Human Services or deposit with a bank or trust company certain obligations as a substitute for the surety bond; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

This bill expands the applicability of certain statutory requirements that currently apply to certain agencies and facilities that are licensed by the Health Division of the Department of Health and Human Services.

**Section 1** of this bill requires a home for individual residential care that submits a reapplication for licensure to the Health Division to include a statement that the



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home is in compliance with certain provisions concerning investigations of the criminal history of its employees and independent contractors. (NRS 449.060)

**Section 2** of this bill requires such a home to file a surety bond with the Health Division. The required amount of the bond ranges from \$5,000 to \$50,000, depending on the number of persons who are employed by the home. The Administrator of the Health Division may exempt a home from this requirement based on undue hardship. (NRS 449.065) In lieu of a surety bond, **section 3** of this bill authorizes a home, with the approval of the Administrator, to deposit certain obligations with a bank or trust company. (NRS 449.067) **Section 9** of this bill authorizes payment from the surety bond or the substitute for the surety bond if a patient who is 60 years of age or older (NRS 449.063) sustains damage to his property as a result of any act or failure to act by the home. (NRS 427A.175)

**Section 4** of this bill requires an applicant for a license to operate an agency to provide personal care services in the home or a home for individual residential care to submit to the Central Repository for Nevada Records of Criminal History two complete sets of the fingerprints of the applicant. (NRS 449.176) **Section 5** of this bill imposes a similar requirement on a home for individual residential care with respect to any person it hires or independent contractor with whom it contracts. (NRS 449.179)

Existing law sets forth certain crimes that are grounds for the denial, suspension or revocation of a license to operate certain facilities that are licensed by the Health Division. **Section 8** of this bill expands the list of crimes to include certain sexually related crimes, crimes involving domestic violence and other crimes involving the use or threat of use of force or violence against the victim and makes the provisions of the section applicable to a home for individual residential care. (NRS 449.188) **Section 7** of this bill requires that such a home terminate the employment or contract of any of its employees or independent contractors who are convicted of a crime specified in **section 8**. (NRS 449.185)

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

**Section 1.** NRS 449.060 is hereby amended to read as follows:

449.060 1. Each license issued pursuant to NRS 449.001 to 449.240, inclusive, expires on December 31 following its issuance and is renewable for 1 year upon reapplication and payment of all fees required pursuant to NRS 449.050 unless the Health Division finds, after an investigation, that the facility has not:

(a) Satisfactorily complied with the provisions of NRS 449.001 to 449.240, inclusive, or the standards and regulations adopted by the Board;

(b) Obtained the approval of the Director of the Department of Health and Human Services before undertaking a project, if such approval is required by NRS 439A.100; or

(c) Conformed to all applicable local zoning regulations.

2. Each reapplication for an agency to provide personal care services in the home, an agency to provide nursing in the home, a ~~residential~~ facility for intermediate care, a facility for skilled nursing , ~~or~~ a residential facility for groups *or a home for*



1 *individual residential care* must include, without limitation, a  
2 statement that the facility , ~~for~~ agency *or home* is in compliance  
3 with the provisions of NRS 449.173 to 449.188, inclusive.

4 **Sec. 2.** NRS 449.065 is hereby amended to read as follows:

5 449.065 1. Except as otherwise provided in subsections 6 and  
6 7 and NRS 449.067, each facility for intermediate care, facility for  
7 skilled nursing, residential facility for groups, *home for individual*  
8 *residential care*, agency to provide personal care services in the  
9 home and agency to provide nursing in the home shall, when  
10 applying for a license or renewing a license, file with the  
11 Administrator of the Health Division a surety bond:

12 (a) If the facility , ~~for~~ agency *or home* employs less than 7  
13 employees, in the amount of \$5,000;

14 (b) If the facility , ~~for~~ agency *or home* employs at least 7 but  
15 not more than 25 employees, in the amount of \$25,000; or

16 (c) If the facility , ~~for~~ agency *or home* employs more than 25  
17 employees, in the amount of \$50,000.

18 2. A bond filed pursuant to this section must be executed by  
19 the facility , ~~for~~ agency *or home* as principal and by a surety  
20 company as surety. The bond must be payable to the Aging Services  
21 Division of the Department of Health and Human Services and must  
22 be conditioned to provide indemnification to an older patient who  
23 the Specialist for the Rights of Elderly Persons determines has  
24 suffered property damage as a result of any act or failure to act by  
25 the facility , ~~for~~ agency *or home* to protect the property of the older  
26 patient.

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

30 4. A surety on any bond filed pursuant to this section may be  
31 released after the surety gives 30 days' written notice to the  
32 Administrator of the Health Division, but the release does not  
33 discharge or otherwise affect any claim filed by an older patient for  
34 property damaged as a result of any act or failure to act by the  
35 facility , ~~for~~ agency *or home* to protect the property of the older  
36 patient alleged to have occurred while the bond was in effect.

37 5. A license is suspended by operation of law when the facility  
38 , ~~for~~ agency *or home* is no longer covered by a surety bond as  
39 required by this section or by a substitute for the surety bond  
40 pursuant to NRS 449.067. The Administrator of the Health Division  
41 shall give the facility , ~~for~~ agency *or home* at least 20 days' written  
42 notice before the release of the surety or the substitute for the surety,  
43 to the effect that the license will be suspended by operation of law  
44 until another surety bond or substitute for the surety bond is filed in



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1 the same manner and amount as the bond or substitute being  
2 terminated.

3 6. The Administrator of the Health Division may exempt a  
4 residential facility for groups *or a home for individual residential*  
5 *care* from the requirement of filing a surety bond pursuant to this  
6 section if the Administrator determines that the requirement would  
7 result in undue hardship to the residential facility for groups ~~or~~ *or*  
8 *home for individual residential care.*

9 7. The requirement of filing a surety bond set forth in this  
10 section does not apply to a facility for intermediate care, facility for  
11 skilled nursing, residential facility for groups, *home for individual*  
12 *residential care*, agency to provide personal care services in the  
13 home or agency to provide nursing in the home that is operated and  
14 maintained by the State of Nevada or an agency thereof.

15 **Sec. 3.** NRS 449.067 is hereby amended to read as follows:

16 449.067 1. As a substitute for the surety bond required  
17 pursuant to NRS 449.065, a facility for intermediate care, a facility  
18 for skilled nursing, a residential facility for groups, *a home for*  
19 *individual residential care*, an agency to provide personal care  
20 services in the home and an agency to provide nursing in the home  
21 may deposit with any bank or trust company authorized to do  
22 business in this State, upon approval from the Administrator of the  
23 Health Division:

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

26 (b) Bills, bonds, notes, debentures or other obligations of the  
27 United States or any agency or instrumentality thereof, or  
28 guaranteed by the United States; or

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

33 2. The obligations of a bank, savings and loan association,  
34 thrift company or credit union must be held to secure the same  
35 obligation as would the surety bond required by NRS 449.065. With  
36 the approval of the Administrator of the Health Division, the  
37 depositor may substitute other suitable obligations for those  
38 deposited, which must be assigned to the Aging Services Division  
39 of the Department of Health and Human Services and are negotiable  
40 only upon approval by the Administrator of the Aging Services  
41 Division.

42 3. Any interest or dividends earned on the deposit accrue to the  
43 account of the depositor.

44 4. The deposit must be an amount at least equal to the surety  
45 bond required by NRS 449.065 and must state that the amount may



1 not be withdrawn except by direct and sole order of the  
2 Administrator of the Aging Services Division.

3 **Sec. 4.** NRS 449.176 is hereby amended to read as follows:

4 449.176 1. Each applicant for a license to operate a facility  
5 for intermediate care, facility for skilled nursing , ~~{or}~~ residential  
6 facility for groups , *agency to provide personal care services in the*  
7 *home or home for individual residential care* shall submit to the  
8 Central Repository for Nevada Records of Criminal History two  
9 complete sets of fingerprints for submission to the Federal Bureau  
10 of Investigation for its report.

11 2. The Central Repository for Nevada Records of Criminal  
12 History shall determine whether the applicant has been convicted of  
13 a crime listed in paragraph (a) of subsection 1 of NRS 449.188 and  
14 immediately inform the administrator of the facility, *agency or*  
15 *home*, if any, and the Health Division of whether the applicant has  
16 been convicted of such a crime.

17 **Sec. 5.** NRS 449.179 is hereby amended to read as follows:

18 449.179 1. Except as otherwise provided in subsection 2,  
19 within 10 days after hiring an employee or entering into a contract  
20 with an independent contractor, the administrator of, or the person  
21 licensed to operate, an agency to provide personal care services in  
22 the home, an agency to provide nursing in the home, a facility for  
23 intermediate care, a facility for skilled nursing , ~~{or}~~ a residential  
24 facility for groups *or a home for individual residential care* shall:

25 (a) Obtain a written statement from the employee or independent  
26 contractor stating whether he has been convicted of any crime listed  
27 in NRS 449.188;

28 (b) Obtain an oral and written confirmation of the  
29 information contained in the written statement obtained pursuant to  
30 paragraph (a);

31 (c) Obtain from the employee or independent contractor two sets  
32 of fingerprints and a written authorization to forward the  
33 fingerprints to the Central Repository for Nevada Records of  
34 Criminal History for submission to the Federal Bureau of  
35 Investigation for its report; and

36 (d) Submit to the Central Repository for Nevada Records of  
37 Criminal History the fingerprints obtained pursuant to paragraph (c).

38 2. The administrator of, or the person licensed to operate, an  
39 agency to provide personal care services in the home, an agency to  
40 provide nursing in the home, a facility for intermediate care, a  
41 facility for skilled nursing , ~~{or}~~ a residential facility for groups *or a*  
42 *home for individual residential care* is not required to obtain the  
43 information described in subsection 1 from an employee or  
44 independent contractor who provides proof that an investigation of  
45 his criminal history has been conducted by the Central Repository



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1 for Nevada Records of Criminal History within the immediately  
2 preceding 6 months and the investigation did not indicate that the  
3 employee or independent contractor had been convicted of any  
4 crime set forth in NRS 449.188.

5 3. The administrator of, or the person licensed to operate, an  
6 agency to provide personal care services in the home, an agency to  
7 provide nursing in the home, a facility for intermediate care, a  
8 facility for skilled nursing, ~~for~~ a residential facility for groups *or a*  
9 *home for individual residential care* shall ensure that the criminal  
10 history of each employee or independent contractor who works at  
11 the agency or facility is investigated at least once every 5 years. The  
12 administrator or person shall:

13 (a) If the agency, ~~for~~ facility *or home* does not have the  
14 fingerprints of the employee or independent contractor on file,  
15 obtain two sets of fingerprints from the employee or independent  
16 contractor;

17 (b) Obtain written authorization from the employee or  
18 independent contractor to forward the fingerprints on file or  
19 obtained pursuant to paragraph (a) to the Central Repository for  
20 Nevada Records of Criminal History for submission to the Federal  
21 Bureau of Investigation for its report; and

22 (c) Submit the fingerprints to the Central Repository for Nevada  
23 Records of Criminal History.

24 4. Upon receiving fingerprints submitted pursuant to this  
25 section, the Central Repository for Nevada Records of Criminal  
26 History shall determine whether the employee or independent  
27 contractor has been convicted of a crime listed in NRS 449.188 and  
28 immediately inform the Health Division and the administrator of, or  
29 the person licensed to operate, the agency, ~~for~~ facility *or home* at  
30 which the person works whether the employee or independent  
31 contractor has been convicted of such a crime.

32 5. The Central Repository for Nevada Records of Criminal  
33 History may impose a fee upon an agency, ~~for~~ a facility *or a home*  
34 that submits fingerprints pursuant to this section for the reasonable  
35 cost of the investigation. The agency, ~~for~~ facility *or home* may  
36 recover from the employee or independent contractor not more than  
37 one-half of the fee imposed by the Central Repository. If the agency  
38, ~~for~~ facility *or home* requires the employee or independent  
39 contractor to pay for any part of the fee imposed by the Central  
40 Repository, it shall allow the employee or independent contractor to  
41 pay the amount through periodic payments.

42 **Sec. 6.** NRS 449.182 is hereby amended to read as follows:

43 449.182 Each agency to provide personal care services in the  
44 home, agency to provide nursing in the home, facility for  
45 intermediate care, facility for skilled nursing, ~~and~~ residential



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1 facility for groups *and home for individual residential care* shall  
2 maintain accurate records of the information concerning its  
3 employees and independent contractors collected pursuant to NRS  
4 449.179 ~~[ ]~~ and shall maintain a copy of the fingerprints submitted  
5 to the Central Repository for Nevada Records of Criminal History  
6 and proof that it submitted two sets of fingerprints to the Central  
7 Repository for its report. These records must be made available for  
8 inspection by the Health Division at any reasonable time , and  
9 copies thereof must be furnished to the Health Division upon  
10 request.

11 **Sec. 7.** NRS 449.185 is hereby amended to read as follows:

12 449.185 1. Upon receiving information from the Central  
13 Repository for Nevada Records of Criminal History pursuant to  
14 NRS 449.179, or evidence from any other source, that an employee  
15 or independent contractor of an agency to provide personal care  
16 services in the home, an agency to provide nursing in the home, a  
17 facility for intermediate care, a facility for skilled nursing , ~~[or]~~ a  
18 residential facility for groups *or home for individual residential*  
19 *care* has been convicted of a crime listed in paragraph (a) of  
20 subsection 1 of NRS 449.188, the administrator of, or the person  
21 licensed to operate, the agency , ~~[or]~~ facility *or home* shall terminate  
22 the employment or contract of that person after allowing him time to  
23 correct the information as required pursuant to subsection 2.

24 2. If an employee or independent contractor believes that the  
25 information provided by the Central Repository is incorrect, he may  
26 immediately inform the agency , ~~[or]~~ facility ~~[ ]~~ *or home*. An agency  
27 , ~~[or]~~ facility *or home* that is so informed shall give the employee or  
28 independent contractor a reasonable amount of time of not less than  
29 30 days to correct the information received from the Central  
30 Repository before terminating the employment or contract of the  
31 person pursuant to subsection 1.

32 3. An agency , ~~[or]~~ facility *or home* that has complied with  
33 NRS 449.179 may not be held civilly or criminally liable based  
34 solely upon the ground that the agency , ~~[or]~~ facility *or home*  
35 allowed an employee or independent contractor to work:

36 (a) Before it received the information concerning the employee  
37 or independent contractor from the Central Repository;

38 (b) During any period required pursuant to subsection 2 to allow  
39 the employee or independent contractor to correct that information;

40 (c) Based on the information received from the Central  
41 Repository, if the information received from the Central Repository  
42 was inaccurate; or

43 (d) Any combination thereof.

44 ➔ An agency , ~~[or]~~ facility *or home* may be held liable for any other  
45 conduct determined to be negligent or unlawful.



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**Sec. 8.** NRS 449.188 is hereby amended to read as follows:

449.188 1. In addition to the grounds listed in NRS 449.160, the Health Division may deny a license to operate a facility for intermediate care, facility for skilled nursing, ~~for~~ residential facility for groups *or home for individual residential care* to an applicant or may suspend or revoke the license of a licensee to operate such a facility *or home* if:

(a) The applicant or licensee has been convicted of:

(1) Murder, voluntary manslaughter or mayhem;

(2) Assault with intent to kill or to commit sexual assault or mayhem;

(3) Sexual assault, statutory sexual seduction, incest, lewdness ~~or~~ *or* indecent exposure, or any other sexually related crime ~~that is punished as a felony~~;

(4) *Prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punished as a misdemeanor, within the immediately preceding 7 years;*

(5) *A crime involving domestic violence that is punished as a felony;*

(6) *A crime involving domestic violence that is punished as a misdemeanor, within the immediately preceding 7 years;*

(7) Abuse or neglect of a child or contributory delinquency;

~~(5)~~ (8) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, within the ~~past~~ *immediately preceding* 7 years;

~~(6)~~ (9) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;

~~(7)~~ (10) A violation of any provision of law relating to the State Plan for Medicaid or a law of any other jurisdiction that prohibits the same or similar conduct, within the immediately preceding 7 years;

~~(8)~~ (11) A violation of any provision of NRS 422.450 to 422.590, inclusive;

~~(9)~~ (12) A criminal offense under the laws governing Medicaid or Medicare, within the immediately preceding 7 years;

~~(10)~~ (13) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years; ~~or~~





~~[(11)]~~ (14) Any other felony involving *the use or threatened use of force or violence against the victim or* the use of a firearm or other deadly weapon ~~[(1)]~~; or

(15) *An attempt or conspiracy to commit any of the offenses listed in this paragraph,* within the immediately preceding 7 years; or

(b) The licensee has, in violation of NRS 449.185, continued to employ a person who has been convicted of a crime listed in paragraph (a).

2. In addition to the grounds listed in NRS 449.160, the Health Division may deny a license to operate an agency to provide personal care services in the home or an agency to provide nursing in the home to an applicant or may suspend or revoke the license of a licensee to operate such an agency if the licensee has, in violation of NRS 449.185, continued to employ a person who has been convicted of a crime listed in paragraph (a) of subsection 1.

3. As used in this section:

(a) *“Domestic violence” means an act described in NRS 33.018.*

(b) “Medicaid” has the meaning ascribed to it in NRS 439B.120.

~~[(b)]~~ (c) “Medicare” has the meaning ascribed to it in NRS 439B.130.

**Sec. 9.** NRS 427A.175 is hereby amended to read as follows:

427A.175 1. Within 1 year after an older patient sustains damage to his property as a result of any act or failure to act by a facility for intermediate care, a facility for skilled nursing, a residential facility for groups, *a home for individual residential care*, an agency to provide personal care services in the home, an intermediary service organization or an agency to provide nursing in the home in protecting the property, the older patient may file a verified complaint with the Division setting forth the details of the damage.

2. Upon receiving a verified complaint pursuant to subsection 1, the Administrator shall investigate the complaint and attempt to settle the matter through arbitration, mediation or negotiation.

3. If a settlement is not reached pursuant to subsection 2, the facility, *home*, agency, organization or older patient may request a hearing before the Specialist for the Rights of Elderly Persons. If requested, the Specialist for the Rights of Elderly Persons shall conduct a hearing to determine whether the facility, *home*, agency or organization is liable for damages to the patient. If the Specialist for the Rights of Elderly Persons determines that the facility, *home*, agency or organization is liable for damages to the patient, he shall order the amount of the surety bond pursuant to NRS 449.065 or the substitute for the surety bond necessary to pay for the damages



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1 pursuant to NRS 449.067 to be released to the Division. The  
2 Division shall pay any such amount to the older patient or the estate  
3 of the older patient.

4 4. The Division shall create a separate account for money to be  
5 collected and distributed pursuant to this section.

6 5. As used in this section:

7 (a) "Agency to provide nursing in the home" has the meaning  
8 ascribed to it in NRS 449.0015;

9 (b) "Agency to provide personal care services in the home" has  
10 the meaning ascribed to it in NRS 449.0021;

11 (c) "Facility for intermediate care" has the meaning ascribed to  
12 it in NRS 449.0038;

13 (d) "Facility for skilled nursing" has the meaning ascribed to it  
14 in NRS 449.0039;

15 (e) *"Home for individual residential care" has the meaning*  
16 *ascribed to it in NRS 449.0105;*

17 (f) "Intermediary service organization" has the meaning ascribed  
18 to it in NRS 426.218;

19 ~~(f)~~ (g) "Older patient" has the meaning ascribed to it in NRS  
20 449.063; and

21 ~~(g)~~ (h) "Residential facility for groups" has the meaning  
22 ascribed to it in NRS 449.017.

23 **Sec. 10.** This act becomes effective on January 1, 2010.

