

Amendment No. 662

Senate Amendment to Assembly Bill No. 263 First Reprint
(BDR 38-509)

Proposed by: Senate Committee on Health and Education

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 263 (§ 3).

| ASSEMBLY ACTION |                          |      | Initial and Date         | SENATE ACTION |              |                          | Initial and Date |                          |       |
|-----------------|--------------------------|------|--------------------------|---------------|--------------|--------------------------|------------------|--------------------------|-------|
| Adopted         | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____         | Adopted      | <input type="checkbox"/> | Lost             | <input type="checkbox"/> | _____ |
| Concurred In    | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____         | Concurred In | <input type="checkbox"/> | Not              | <input type="checkbox"/> | _____ |
| Receded         | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____         | Receded      | <input type="checkbox"/> | Not              | <input type="checkbox"/> | _____ |

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold dashed underlining* is newly added transitory language.

SLP/KCR



Date: 5/15/2009

A.B. No. 263—Authorizes the Aging Services Division of the Department of Health and Human Services to establish a program of all-inclusive care for the elderly in certain counties. (BDR 38-509)



## ASSEMBLY BILL NO. 263--ASSEMBLYWOMAN LESLIE

MARCH 9, 2009

Referred to Committee on Health and Human Services

SUMMARY—Authorizes the Aging Services Division of the Department of Health and Human Services to establish a program of all-inclusive care for the elderly ~~in certain counties~~ (BDR 38-509)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
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 public health; authorizing the Aging Services Division of the Department of Health and Human Services to establish a program of all-inclusive care for the elderly ~~in certain counties~~; authorizing the Division to adopt regulations to carry out the program; authorizing the Division to establish a schedule of fees for services provided under the program; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the Aging Services Division of the Department of Health and Human Services to establish and administer a program to provide the community-based services necessary to enable a frail elderly person to remain in his home and avoid placement in a facility for long-term care. (NRS 427A.250) **Section 1** of this bill authorizes the Division to establish a community-based and in-home program of all-inclusive care for the elderly, commonly referred to as a PACE program, in accordance with the provisions of federal law authorizing such programs. (42 U.S.C. § 1396u-4; 42 C.F.R. Part 460) If the Division establishes a PACE program, the program ~~must~~ **may** be established in any county in this State ~~whose population is 100,000 or more but less than 400,000 (currently Washoe County).~~ **Section 1** authorizes the Division to adopt regulations necessary to establish and administer the program. **Section 1** also requires the Director of the Department, if the Division wishes to establish a PACE program, to submit to the Secretary of Health and Human Services any amendment to the State Plan for Medicaid necessary to enable the Division to establish the PACE program and to revise the program from time to time.

**Section 2** of this bill authorizes the Division to contract with public or private entities to carry out the PACE program. (NRS 427A.260) **Section 3** of this bill authorizes the Division to apply for and accept any money available to establish and administer the program. **Section 3** further authorizes the Division to establish a schedule of fees to be charged for the provision of services under the program. (NRS 427A.270)

**Section 4** of this bill clarifies that the PACE program established pursuant to **section 1** of this bill is in addition to any test program or demonstration program established by the Division concerning the various ways in which community-based services and all-inclusive care can be provided to frail elderly persons. (NRS 427A.280)

**Section 7** of this bill requires the Division to submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature or the Legislative Committee on Health Care semiannual reports on the progress of the Division in establishing a PACE program.

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

**Section 1.** Chapter 427A of NRS is hereby amended by adding thereto a new section to read as follows:

*1. In addition to any program established pursuant to NRS 427A.250, the Division may establish and administer a program of all-inclusive care for the elderly, commonly known as a PACE program. The program may be carried out solely by the Division or in cooperation with another state agency, the Federal Government or any local government.*

*2. A program established pursuant to subsection 1 ~~must~~*

*~~(a) Comply:~~*

*(a) Must comply with the provisions of 42 U.S.C. § 1396u-4, 42 C.F.R. Part 460 and any other federal regulations governing programs of all-inclusive care for the elderly; and*

*(b) ~~Be~~ May be established in any county in this State ~~whose population is 100,000 or more but less than 400,000.~~*

*3. The Division may adopt regulations necessary to establish and administer the program.*

*4. If the Division wishes to establish a program pursuant to subsection 1, the Director shall submit to the Secretary of Health and Human Services any amendment to the State Plan for Medicaid necessary to enable the Division to establish the program and to revise the program from time to time.*

**Sec. 2.** NRS 427A.260 is hereby amended to read as follows:

427A.260 1. The Division may use personnel of the Division or it may contract with any appropriate public or private agency, organization or institution to provide *a program of all-inclusive care for the elderly and to provide* the community-based services necessary to enable a frail elderly person to remain in his home.

2. Any such contract must:

(a) Include a description of the type of service to be provided;

(b) ~~Specify~~ **For:**

*(1) A program of all-inclusive care for the elderly, specify the capitation rate to be paid for all-inclusive care for the elderly and the method of payment; and*

*(2) Any other community-based services, specify the price to be paid for each service and the method of payment; and*

(c) Specify the criteria to be used to evaluate the provision of the service.

**Sec. 3.** NRS 427A.270 is hereby amended to read as follows:

427A.270 1. The Division may apply for, accept and expend any federal or private grant of money or other type of assistance that becomes available to carry out the provisions of NRS 427A.250 to 427A.280, inclusive ~~H~~, *and section 1 of this act.* Any money received pursuant to this section must be deposited with the State Treasurer and accounted for separately in the State General Fund.

2. The Division shall, with the approval of the Commission and Director, establish a schedule of fees to be charged and collected for any service provided pursuant to NRS 427A.250 to 427A.280, inclusive ~~H~~, *and section 1 of this act.*

**Sec. 4.** NRS 427A.280 is hereby amended to read as follows:

427A.280 ~~He~~ *In addition to the program established pursuant to section 1 of this act, the* Division may initiate projects to test and demonstrate various

ways of providing the community-based services **and all-inclusive care** necessary to enable a frail elderly person to remain in his home.

**Sec. 5.** NRS 427A.310 is hereby amended to read as follows:

427A.310 1. Except as otherwise provided in subsection 2, the Ombudsman for Aging Persons shall provide assistance to persons who are 60 years of age or older and do not reside in facilities for long-term care. The assistance must include at least the:

(a) Coordination of resources and services available to aging persons within their respective communities, including the services provided through ~~the~~ **a** program established pursuant to NRS 427A.250 ~~or section 1 of this act;~~

(b) Dissemination of information to aging persons on issues of national and local interest, including information regarding the services of the Ombudsman and the existence of groups of aging persons with similar interests and concerns;

(c) Publication of a guide for use in each county of this State regarding the resources and services available for aging persons in the respective county; and

(d) Advocacy of issues relating to aging persons.

2. Upon request by the Administrator, the Ombudsman for Aging Persons shall temporarily perform the duties of advocates for residents of facilities for long-term care specified in NRS 427A.125 to 427A.165, inclusive.

**Sec. 6.** NRS 123.259 is hereby amended to read as follows:

123.259 1. Except as otherwise provided in subsection 2, a court of competent jurisdiction may, upon a proper petition filed by a spouse or the guardian of a spouse, enter a decree dividing the income and resources of a husband and wife pursuant to this section if one spouse is an institutionalized spouse and the other spouse is a community spouse.

2. The court shall not enter such a decree if the division is contrary to a premarital agreement between the spouses which is enforceable pursuant to chapter 123A of NRS.

3. Unless modified pursuant to subsection 4 or 5, the court may divide the income and resources:

(a) Equally between the spouses; or

(b) By protecting income for the community spouse through application of the maximum federal minimum monthly maintenance needs allowance set forth in 42 U.S.C. § 1396r-5(d)(3)(C) and by permitting a transfer of resources to the community spouse an amount which does not exceed the amount set forth in 42 U.S.C. § 1396r-5(f)(2)(A)(ii).

4. If either spouse establishes that the community spouse needs income greater than that otherwise provided under paragraph (b) of subsection 3, upon finding exceptional circumstances resulting in significant financial duress and setting forth in writing the reasons for that finding, the court may enter an order for support against the institutionalized spouse for the support of the community spouse in an amount adequate to provide such additional income as is necessary.

5. If either spouse establishes that a transfer of resources to the community spouse pursuant to paragraph (b) of subsection 3, in relation to the amount of income generated by such a transfer, is inadequate to raise the income of the community spouse to the amount allowed under paragraph (b) of subsection 3 or an order for support issued pursuant to subsection 4, the court may substitute an amount of resources adequate to provide income to fund the amount so allowed or to fund the order for support.

6. A copy of a petition for relief under subsection 4 or 5 and any court order issued pursuant to such a petition must be served on the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services when any application for medical assistance is made by or on

1 behalf of an institutionalized spouse. ~~He~~ **The Administrator** may intervene no  
2 later than 45 days after receipt by the Division of Welfare and Supportive Services  
3 of the Department of Health and Human Services of an application for medical  
4 assistance and a copy of the petition and any order entered pursuant to subsection 4  
5 or 5, and may move to modify the order.

6 7. A person may enter into a written agreement with his spouse dividing their  
7 community income, assets and obligations into equal shares of separate income,  
8 assets and obligations of the spouses. Such an agreement is effective only if one  
9 spouse is an institutionalized spouse and the other spouse is a community spouse or  
10 a division of the income or resources would allow one spouse to qualify for services  
11 under NRS 427A.250 to 427A.280, inclusive ~~H~~, **and section 1 of this act.**

12 8. An agreement entered into or decree entered pursuant to this section may  
13 not be binding on the Division of Welfare and Supportive Services of the  
14 Department of Health and Human Services in making determinations under the  
15 State Plan for Medicaid.

16 9. As used in this section, "community spouse" and "institutionalized spouse"  
17 have the meanings respectively ascribed to them in 42 U.S.C. § 1396r-5(h).

18 **Sec. 7.** The Aging Services Division of the Department of Health and Human  
19 Services shall, on or before March 1 and October 1 of each year, submit a report on  
20 the progress of the Division in establishing a PACE program pursuant to section 1  
21 of this act to the Director of the Legislative Counsel Bureau for transmittal to the  
22 Legislature or, if the Legislature is not in session, the Legislative Committee on  
23 Health Care.