

Assembly Bill No. 534—Committee on
Health and Human Services

CHAPTER.....

AN ACT relating to group homes; increasing the monetary civil penalties to be assessed against persons who operate a residential facility for groups or a home for individual residential care without a license; increasing the period within which persons who operate a residential facility for groups or a home for individual residential care without a license are prohibited from applying for a license to operate such a facility; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, it is an offense to operate a residential facility for groups or a home for individual residential care without a license. Existing law also provides that if a person operates such a facility or home without a license, the person is liable for a civil penalty to be recovered by the Attorney General in the name of the Health Division of the Department of Health and Human Services, and is required to move, at his or her own expense, the residents of the facility or home, as applicable, to a facility or home that is licensed. Existing law also sets the civil penalty for a first offense at not more than \$10,000 and, for a second or subsequent offense, at not less than \$10,000 or more than \$20,000. Further, under existing law, a person who operates a residential facility for groups or a home for individual residential care without a license is also prohibited from applying for a license to operate that type of facility or home, as applicable, for a period of 6 months after the civil penalty was assessed. (NRS 449.030, 449.210, 449.249, 449.2496)

This bill, with respect to the unlicensed operation of residential facilities for groups and homes for individual residential care: (1) transfers the authority to impose civil penalties from the Attorney General to the Health Division; (2) increases the civil penalties for unlicensed operation to \$10,000 for a first offense, \$25,000 for a second offense and \$50,000 for a third or subsequent offense; (3) maintains the requirement to transfer residents to a licensed facility or home, as applicable; (4) increases the periods within which a violator may not apply for a license to operate such a facility or home to 6 months for a first offense, 1 year for a second offense and a permanent ban for a third offense; and (5) clarifies that, notwithstanding the ability of a violator to appeal an adverse action, the offense of operating a residential facility for groups or a home for individual residential care without a license is not excused by subsequent licensure of the facility or home, as applicable.



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

Section 1. NRS 449.210 is hereby amended to read as follows:

449.210 1. Except as otherwise provided in subsection 2 and NRS 449.24897, a person who operates a medical facility or facility for the dependent without a license issued by the Health Division is guilty of a misdemeanor.

2. ~~1A~~ ***If a person ~~who~~ operates a residential facility for groups without a license issued by the Health Division ~~1~~ , the Health Division shall:***

(a) ~~Is liable for~~ ***Impose*** a civil penalty ~~to be recovered by the Attorney General in the name of the Health Division for the~~ ***on the operator in the following amount:***

(1) ***For a first offense , ~~of not more than~~ \$10,000 . ~~and for~~***

(2) ***For a second offense, \$25,000.***

(3) ***For a third or subsequent offense ~~of not less than \$10,000 or more than \$20,000;~~ , \$50,000.***

(b) ~~1Shall~~ ***Order the operator, at the operator's own expense, to*** move all of the persons who are receiving services in the residential facility for groups to a residential facility for groups that is licensed . ~~at his or her own expense; and~~

(c) ~~May not apply~~ ***Prohibit the operator from applying*** for a license to operate a residential facility for groups . ~~for a period of~~ ***The duration of the period of prohibition must be:***

(1) ***For 6 months ~~after the person~~ if the operator is punished pursuant to ~~this section.~~ subparagraph (1) of paragraph (a).***

(2) ***For 1 year if the operator is punished pursuant to subparagraph (2) of paragraph (a).***

(3) ***Permanent if the operator is punished pursuant to subparagraph (3) of paragraph (a).***

3. ***Before the Health Division imposes an administrative sanction pursuant to subsection 2, the Health Division shall provide the operator of a residential facility for groups with reasonable notice. The notice must contain the legal authority, jurisdiction and reasons for the action to be taken. If the operator of a residential facility for groups wants to contest the action, the operator may file an appeal pursuant to the regulations of the State Board of Health adopted pursuant to NRS 449.165 and 449.170. Upon receiving notice of an appeal, the Health Division***



shall hold a hearing in accordance with those regulations. For the purpose of this subsection, it is no defense to the violation of operating a residential facility for groups without a license that the operator thereof subsequently licensed the facility in accordance with law.

4. Unless otherwise required by federal law, the Health Division shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used for the protection of the health, safety, ~~and~~ well-being *and property* of patients, including residents of residential facilities for groups.

Sec. 2. NRS 449.2496 is hereby amended to read as follows:

449.2496 1. ~~[A] If a~~ person ~~[who]~~ operates or maintains a home for individual residential care without a license issued by the Health Division pursuant to NRS 449.249 ~~[is liable for]~~, *the Health Division shall:*

(a) Impose a civil penalty ~~[, to be recovered by the Attorney General in the name of the Health Division, for the]~~ *on the operator in the following amount:*

(1) For a first offense, ~~[of]~~ \$10,000. ~~[and for]~~

(2) For a second offense, \$25,000.

(3) For a third or subsequent offense ~~[of not less than \$10,000 nor more than \$20,000].~~

~~— 2. Unless otherwise required by federal law, the Health Division shall deposit civil penalties collected pursuant to this section into a separate account in the State General Fund in the State Treasury to be used for the protection of the health, safety, well-being and property of patients, including residents of facilities found deficient by the Health Division.~~

~~— 3. A person against whom a civil penalty is assessed by the court pursuant to subsection 1:~~

~~— (a) Shall], \$50,000.~~

(b) Order the operator, at the operator's own expense, to move ~~[, at that person's own expense,]~~ all persons receiving services in the home for individual residential care to a licensed home for individual residential care.

~~[(b) May not apply]~~

(c) Prohibit the operator from applying for a license to operate a home for individual residential care. ~~[until]~~ *The duration of the period of prohibition must be:*

(1) For 6 months ~~[have elapsed since the penalty was assessed.]~~ *if the operator is punished pursuant to subparagraph (1) of paragraph (a).*



(2) For 1 year if the operator is punished pursuant to subparagraph (2) of paragraph (a).

(3) Permanent, if the operator is punished pursuant to subparagraph (3) of paragraph (a).

2. Before the Health Division imposes an administrative sanction pursuant to subsection 1, the Health Division shall provide the operator of a home for individual residential care with reasonable notice. The notice must contain the legal authority, jurisdiction and reasons for the action to be taken. If the operator of a home for individual residential care wants to contest the action, the operator may file an appeal pursuant to the regulations of the State Board of Health adopted pursuant to NRS 449.165 and 449.170. Upon receiving notice of an appeal, the Health Division shall hold a hearing in accordance with those regulations. For the purpose of this subsection, it is no defense to the violation of operating a home for individual residential care without a license that the operator thereof subsequently licensed the home in accordance with law.

3. Unless otherwise required by federal law, the Health Division shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used for the protection of the health, safety, well-being and property of patients, including residents of facilities found deficient by the Health Division.

4. As used in this section, "operator" means a person who operates or maintains a home for individual residential care.

Sec. 3. This act becomes effective on July 1, 2011.

