

ASSEMBLY BILL NO. 535—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMISSION’S
COMMITTEE TO STUDY GROUP HOMES)

MARCH 28, 2011

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing the referral of persons to residential facilities for groups. (BDR 40-674)

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 residential facilities for groups; revising provisions governing the referral of persons to such facilities; requiring the State Board of Health to track certain violations and to disseminate certain information to the public; providing a civil penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

To operate a business which provides referrals to residential facilities for groups, existing law provides that a person must obtain a license from the State Board of Health. Also under existing law, a business so licensed and its employees are prohibited from referring a person to a residential facility for groups if the facility is unlicensed or if the facility is owned by the same person who owns the business. A person who violates that prohibition is subject to a civil penalty. Existing law does not address referrals to residential facilities for groups that are made directly by individual providers of health care, and specifically exempts medical facilities that were already licensed as of October 1, 1999. (NRS 449.0305)

Section 3 of this bill adds to the list of activities in which a business licensed to provide referrals to residential facilities for groups, and its employees, may not engage by prohibiting a business so licensed and its employees from referring a person to a residential facility for groups if the business or its employee knows or reasonably should know that the facility or its services are not appropriate for the condition of the person being referred. **Section 1** of this bill prohibits a licensed medical facility and its employees from: (1) referring a person to a residential facility for groups that is not licensed by the Health Division of the Department of Health and Human Services; and (2) referring a person to a residential facility for



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groups if the licensed medical facility or its employee knows or reasonably should know that the residential facility for groups, or the services provided by the residential facility for groups, are not appropriate for the condition of the person being referred. "Licensed medical facility" is defined to include medical facilities and facilities for the dependent that are licensed by the Health Division and other facilities that provide medical care and treatment and which are required to be licensed by the State Board of Health. If a licensed medical facility or an employee of the licensed medical facility violates the prohibitions established by **section 1**, the licensed medical facility is liable to the State Board of Health for a civil penalty of not more than \$10,000 for a first offense, and of not less than \$10,000 or more than \$20,000 for a second or subsequent offense. **Section 1** also requires the State Board of Health to establish and maintain a system to track violations of **section 1** and NRS 449.0305, and directs the Board to educate the public regarding the requirements and prohibitions set forth in those sections.

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to the requirements and prohibitions set forth in NRS 449.0305, and notwithstanding any exceptions set forth in that section, a licensed medical facility or an employee of such a medical facility shall not:

(a) Refer a person to a residential facility for groups that is not licensed by the Health Division;

(b) Refer a person to a residential facility for groups if the licensed medical facility or its employee knows or reasonably should know that the residential facility for groups, or the services provided by the residential facility for groups, are not appropriate for the condition of the person being referred.

2. If a licensed medical facility or an employee of such a medical facility violates the provisions of subsection 1, the licensed medical facility is liable for a civil penalty to be recovered by the Attorney General in the name of the Board for the first offense of not more than \$10,000 and for a second or subsequent offense of not less than \$10,000 or more than \$20,000. Unless otherwise required by federal law, the Board shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used for the enforcement of this section and the protection of the health, safety, well-being and property of residents of residential facilities for groups.

3. The Board shall:

(a) Establish and maintain a system to track violations of this section and NRS 449.0305. Except as otherwise provided in this paragraph, records created by or for the system are public records



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1 *and are available for public inspection. The following information*
2 *is confidential:*

3 (1) *Any personally identifying information relating to a*
4 *person who is referred to a residential facility for groups.*

5 (2) *Information which may not be disclosed under federal*
6 *law.*

7 (b) *Educate the public regarding the requirements and*
8 *prohibitions set forth in this section and NRS 449.0305.*

9 4. *As used in this section, "licensed medical facility" means:*

10 (a) *A medical facility that is required to be licensed pursuant*
11 *to this section and NRS 449.001 to 449.240, inclusive.*

12 (b) *A facility for the dependent that is required to be licensed*
13 *pursuant to this section and NRS 449.001 to 449.240, inclusive.*

14 (c) *A facility that provides medical care or treatment and is*
15 *required by regulation of the Board to be licensed pursuant to*
16 *NRS 449.038.*

17 **Sec. 2.** NRS 449.030 is hereby amended to read as follows:

18 449.030 1. No person, state or local government or agency
19 thereof may operate or maintain in this State any medical facility or
20 facility for the dependent without first obtaining a license therefor as
21 provided in NRS 449.001 to 449.240, inclusive **H**, *and section 1 of*
22 *this act.*

23 2. Unless licensed as a facility for hospice care, a person, state
24 or local government or agency thereof shall not operate a program
25 of hospice care without first obtaining a license for the program
26 from the Board.

27 **Sec. 3.** NRS 449.0305 is hereby amended to read as follows:

28 449.0305 1. Except as otherwise provided in subsection 5, a
29 person must obtain a license from the Board to operate a business
30 that provides referrals to residential facilities for groups.

31 2. The Board shall adopt:

32 (a) Standards for the licensing of businesses that provide
33 referrals to residential facilities for groups;

34 (b) Standards relating to the fees charged by such businesses;

35 (c) Regulations governing the licensing of such businesses; and

36 (d) Regulations establishing requirements for training the
37 employees of such businesses.

38 3. A licensed nurse, social worker, physician or hospital, or a
39 provider of geriatric care who is licensed as a nurse or social
40 worker, may provide referrals to residential facilities for groups
41 through a business that is licensed pursuant to this section. The
42 Board may, by regulation, authorize a public guardian or any other
43 person it determines appropriate to provide referrals to residential
44 facilities for groups through a business that is licensed pursuant to
45 this section.



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4. A business that is licensed pursuant to this section or an employee of such a business shall not:

(a) Refer a person to a residential facility for groups that is not licensed.

(b) *Refer a person to a residential facility for groups if the business or its employee knows or reasonably should know that the facility, or the services provided by the facility, are not appropriate for the condition of the person being referred.*

(c) Refer a person to a residential facility for groups that is owned by the same person who owns the business.

➤ A person who violates the provisions of this subsection is liable for a civil penalty to be recovered by the Attorney General in the name of the ~~{State} Board {of Health}~~ for the first offense of not more than \$10,000 and for a second or subsequent offense of not less than \$10,000 nor more than \$20,000. Unless otherwise required by federal law, the ~~{State} Board {of Health}~~ shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used for the enforcement of this section and the protection of the health, safety, well-being and property of residents of residential facilities for groups.

5. This section does not apply to a medical facility that is licensed pursuant to NRS 449.001 to 449.240, inclusive, *and section 1 of this act* on October 1, 1999.

Sec. 4. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and a hearing as required by law, impose an administrative fine of not more than \$10,000 for each violation on, recover reasonable investigative fees and costs incurred from, suspend, revoke, deny the issuance or renewal of or place conditions on the license of, and place on probation or impose any combination of the foregoing on any nursing facility administrator or administrator of a residential facility for groups who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his or her license by the use of fraud or deceit.

(c) Violates any of the provisions of this chapter.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.001 to 449.240, inclusive, *or section 1 of this act*, as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

(e) Violates any regulation of the Board prescribing additional standards of conduct for nursing facility administrators or administrators of residential facilities for groups, including, without limitation, a code of ethics.



(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the nursing facility administrator or administrator of a residential facility for groups and the patient or resident for the financial or other gain of the licensee.

2. The Board shall give a licensee against whom proceedings are brought pursuant to this section written notice of a hearing pursuant to NRS 233B.121 and 241.034. A licensee may waive, in writing, his or her right to attend the hearing.

3. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that set forth a procedure pursuant to which the Chair of the Board may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

5. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

Sec. 5. This act becomes effective on July 1, 2011.

