

Amendment No. 127

Assembly Amendment to Assembly Bill No. 123 (BDR 40-159)

Proposed by: Assembly Committee on Health and Human Services

Amends: Summary: No 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. 123 (§ 4).

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 underlining* is newly added transitory language.

RBL



Date: 4/1/2011

A.B. No. 123—Makes various changes relating to certain facilities that provide health and related care. (BDR 40-159)



ASSEMBLY BILL NO. 123—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON SENIOR
CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS)

PREFILED FEBRUARY 4, 2011

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes relating to certain facilities that provide health and related care. (BDR 40-159)

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 public health; requiring facilities for intermediate care, facilities for skilled nursing, residential facilities for groups and homes for individual residential care to provide itemized statements under certain circumstances; requiring the Health Division of the Department of Health and Human Services to conduct routine inspections of such facilities; requiring ~~the Health Division~~ *facilities* to provide notices of deficiencies to patients or other responsible persons upon discovering a deficiency during an inspection of such facilities; providing administrative penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill requires facilities for intermediate care, facilities for skilled nursing, residential facilities for groups and homes for individual residential care to provide, upon the request of a person receiving care and certain other persons, an itemized statement of charges incurred for care provided by the facility or home.

Section 3 of this bill requires the Health Division of the Department of Health and Human Services to inspect every facility for intermediate care, facility for skilled nursing, residential facility for groups and home for individual residential care at least ~~four times~~ *one time* each year. ~~[Section 9 of this bill requires the Health Division to notify a person receiving care at such a facility or home and certain other persons upon discovering a deficiency during an inspection of the facility or home.] In addition, section 3 requires the facility to provide notice of a deficiency which is discovered during an inspection and which affects the health and safety of a patient to the person receiving care at the facility or certain other responsible persons.~~

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

1 **Section 1.** Chapter 449 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *1. Subject to the provisions of the Health Insurance Portability*
4 *and Accountability Act of 1996, Public Law 104-191, a facility for intermediate*
5 *care, facility for skilled nursing, residential facility for groups or home for*
6 *individual residential care shall, upon request, provide an itemized statement of*
7 *charges to:*

8 (i) *The person who received care in the facility or home;*

9 (ii) *The parent or guardian of the person who received care in the facility or*
10 *home; or*

11 (iii) ~~*[Another] Any other natural person [who is legally responsible or has*~~
12 ~~*agreed to be responsible for the payment of charges incurred]*~~ *designated by the*
13 *person receiving care at the facility or home.*

14 2. *An itemized statement of charges provided by a facility for intermediate*
15 *care, facility for skilled nursing, residential facility for groups or home for*
16 *individual residential care pursuant to subsection 1 must, without limitation:*

17 (i) *Itemize the charges for services, care, food, medicine and other supplies*
18 *provided to the person receiving care at the facility or home;*

19 (ii) *Identify the amount of payment allocated to each charge;*

20 (iii) *Be provided in a manner that is understandable to an ordinary person;*

21 (iv) *Be provided at no additional cost; and*

22 (v) *Be provided in a timely manner.*

23 **Sec. 3.** *1. The Health Division shall conduct on-site inspections of each*
24 *facility for intermediate care, facility for skilled nursing, residential facility for*
25 *groups and home for individual residential care which holds a license issued*
26 *pursuant to this chapter at least ~~four times~~ one time per year ~~[-]~~ and shall*
27 *conduct such other inspections as the Health Division deems necessary as a*
28 *result of that inspection.*

29 2. *An inspection conducted pursuant to subsection 1 must determine*
30 *whether the facility or home is in compliance with all applicable laws and*
31 *standards.*

32 3. *A facility for intermediate care, facility for skilled nursing, residential*
33 *facility for groups or home for individual residential care shall immediately*
34 *provide notice of a deficiency affecting the health and safety of a patient*
35 *discovered during the course of an inspection to:*

36 (i) *A person receiving care at the facility or home;*

37 (ii) *The parent or legal guardian of the person receiving care at the facility*
38 *or home; or*

39 (iii) *Any other natural person designated to receive such notice by the person*
40 *receiving care at the facility or home or the parent or guardian of the person.*

41 **Sec. 4.** NRS 449.050 is hereby amended to read as follows:

42 449.050 1. Except as otherwise provided in subsection 2, each application
43 for a license must be accompanied by such fee as may be determined by regulation
44 of the Board. The Board may, by regulation, allow or require payment of a fee for a
45 license in installments and may fix the amount of each payment and the date that
46 the payment is due.

47 2. A facility for the care of adults during the day is exempt from the fees
48 imposed by the Board pursuant to this section.

3. The fee imposed by the Board for a facility for transitional living for released offenders must be based on the type of facility that is being licensed and must be calculated to produce the revenue estimated to cover the costs related to the license, but in no case may a fee for a license exceed the actual cost to the Health Division of issuing or renewing the license.

4. If an application for a license for a facility for transitional living for released offenders is denied, any amount of the fee paid pursuant to this section that exceeds the expenses and costs incurred by the Health Division must be refunded to the applicant.

5. The fee imposed by the Board for a facility for intermediate care, facility for skilled nursing, residential facility for groups or home for individual residential care must be calculated to produce the revenue estimated to cover the costs related to the license, including, without limitation, the costs related to inspecting the facility. ~~for home four times per year.~~

Sec. 5. NRS 449.070 is hereby amended to read as follows:

449.070 The provisions of NRS 449.001 to 449.240, inclusive, *and sections 2 and 3 of this act* do not apply to:

1. Any facility conducted by and for the adherents of any church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing in the practice of the religion of the church or denomination, except that such a facility shall comply with all regulations relative to sanitation and safety applicable to other facilities of a similar category.

2. Foster homes as defined in NRS 424.014.

3. Any medical facility or facility for the dependent operated and maintained by the United States Government or an agency thereof.

Sec. 6. NRS 449.140 is hereby amended to read as follows:

449.140 1. Money received from licensing medical facilities and facilities for the dependent must be forwarded to the State Treasurer for deposit in the State General Fund.

2. The Health Division shall enforce the provisions of NRS 449.001 to 449.245, inclusive, *and sections 2 and 3 of this act*, and may incur any necessary expenses not in excess of money appropriated for that purpose by the State or received from the Federal Government.

Sec. 7. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Health Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.001 to 449.240, inclusive, *and sections 2 and 3 of this act* upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, *and sections 2 and 3 of this act*, or of any other law of this State or of the standards, rules and regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to this chapter, if such approval is required.

(f) Failure to comply with the provisions of NRS 449.2486.

2. In addition to the provisions of subsection 1, the Health Division may revoke a license to operate a facility for the dependent if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Health Division shall maintain a log of any complaints that it receives relating to activities for which the Health Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The Health Division shall provide to a facility for the care of adults during the day:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Health Division either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

➤ The facility shall make the information available to the public pursuant to NRS 449.2486.

4. On or before February 1 of each odd-numbered year, the Health Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Health Division pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Health Division pursuant to subsection 2.

Sec. 8. NRS 449.163 is hereby amended to read as follows:

449.163 1. If a medical facility or facility for the dependent violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, *and sections 2 and 3 of this act*, or any condition, standard or regulation adopted by the Board, the Health Division, in accordance with the regulations adopted pursuant to NRS 449.165, may:

(a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;

(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;

(c) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and

(d) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. If a violation by a medical facility or facility for the dependent relates to the health or safety of a patient, an administrative penalty imposed pursuant to paragraph (c) of subsection 1 must be in a total amount of not less than \$1,000 and not more than \$10,000 for each patient who was harmed or at risk of harm as a result of the violation.

3. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (c) of subsection 1, the Health Division may:

(a) Suspend the license of the facility until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

4. The Health Division may require any facility that violates any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, *and sections 2 and 3 of this act*, or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

5. Any money collected as administrative penalties pursuant to this section must be accounted for separately and used to protect the health or property of the residents of the facility in accordance with applicable federal standards.

Sec. 9. ~~[NRS 449.200 is hereby amended to read as follows:~~

~~449.200 The Health Division shall:~~

~~1. Prepare a report of the results of its inspections of medical facilities and facilities for the dependent regarding compliance with applicable regulations and standards. The report must be provided to the facility and include, without limitation, a recommendation of the Health Division for correcting any deficiencies and, if a deficiency is discovered as a result of an investigation by a county, district or city board of health or health officer, the recommendations of the board or health officer;~~

~~2. Upon request, disclose to any person or governmental entity the results of its inspections of facilities for skilled nursing, facilities for intermediate care and residential facilities for groups regarding their compliance with applicable regulations and standards;~~

~~3. Immediately provide notice of a deficiency discovered during the course of an inspection of a facility for intermediate care, facility for skilled nursing, residential facility for groups or home for individual residential care to:~~

~~(a) A person receiving care at the facility or home;~~

~~(b) The parent or legal guardian of the person receiving care at the facility or home; or~~

~~(c) Any other natural person designated to receive such notice by the person receiving care at the facility or home or the parent or guardian of the person.]~~

(Deleted by amendment.)

Sec. 10. NRS 449.220 is hereby amended to read as follows:

449.220 1. The Health Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.001 to 449.240, inclusive *H*, *and sections 2 and 3 of this act*:

(a) Without first obtaining a license therefor; or

(b) After his or her license has been revoked or suspended by the Health Division.

2. It is sufficient in such action to allege that the defendant did, on a certain date and in a certain place, operate and maintain such a facility without a license.

Sec. 11. NRS 449.230 is hereby amended to read as follows:

449.230 1. Any authorized member or employee of the Health Division may enter and inspect any building or premises at any time to secure compliance with or prevent a violation of any provision of NRS 449.001 to 449.245, inclusive *H*, *and sections 2 and 3 of this act*.

2. The State Fire Marshal or a designee of the State Fire Marshal shall, upon receiving a request from the Health Division or a written complaint concerning

1 compliance with the plans and requirements to respond to an emergency adopted
2 pursuant to subsection 9 of NRS 449.037:

3 (a) Enter and inspect a residential facility for groups; and

4 (b) Make recommendations regarding the adoption of plans and requirements
5 pursuant to subsection 9 of NRS 449.037,

6 ➡ to ensure the safety of the residents of the facility in an emergency.

7 3. The State Health Officer or a designee of the State Health Officer shall
8 enter and inspect at least annually each building or the premises of a residential
9 facility for groups to ensure compliance with standards for health and sanitation.

10 4. An authorized member or employee of the Health Division shall enter and
11 inspect any building or premises operated by a residential facility for groups within
12 72 hours after the Health Division is notified that a residential facility for groups is
13 operating without a license.

14 **Sec. 12.** NRS 449.235 is hereby amended to read as follows:

15 449.235 ~~Every~~ *In addition to any inspection required pursuant to section 3*
16 *of this act, every* medical facility or facility for the dependent may be inspected at
17 any time, with or without notice, as often as is necessary by:

18 1. The Health Division to ensure compliance with all applicable regulations
19 and standards; and

20 2. Any person designated by the Aging and Disability Services Division of
21 the Department of Health and Human Services to investigate complaints made
22 against the facility.

23 **Sec. 13.** NRS 449.240 is hereby amended to read as follows:

24 449.240 The district attorney of the county in which the facility is located
25 shall, upon application by the Health Division, institute and conduct the prosecution
26 of any action for violation of any provisions of NRS 449.001 to 449.245, inclusive
27 ~~of~~, *and sections 2 and 3 of this act.*

28 **Sec. 14.** NRS 449.2493 is hereby amended to read as follows:

29 449.2493 ~~The~~ *In addition to any inspection required pursuant to section 3*
30 *of this act, the* Health Division and the Aging and Disability Services Division of
31 the Department of Health and Human Services may:

32 1. Investigate any complaints against a home for individual residential care
33 and, when conducting such an investigation, may inspect the home during normal
34 business hours, with or without notice.

35 2. Report to an appropriate state or local agency any violations of state or
36 local laws or regulations discovered during an investigation conducted pursuant to
37 this section.

38 **Sec. 15.** This act becomes effective upon passage and approval for the
39 purpose of adopting regulations and on October 1, 2011, for all other purposes.