

## Amendment No. 216

Senate Amendment to Senate Bill No. 379

(BDR 40-1012)

**Proposed by:** Senate Committee on Health and Human Services**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

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.

SRT/RBL



Date: 4/23/2011

S.B. No. 379—Revises provisions governing the inspection by the Health Division of the Department of Health and Human Services of certain facilities and offices regulated by the Health Division.  
(BDR 40-1012)



## SENATE BILL NO. 379--SENATOR KIECKHEFER

MARCH 21, 2011

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing the inspection by the Health Division of the Department of Health and Human Services of certain facilities and offices regulated by the Health Division. (BDR 40-1012)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public health; requiring the Health Division of the Department of Health and Human Services, under certain circumstances, to extend the period between periodic inspections and to reduce certain fees for certain facilities and offices regulated by the Health Division; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the Health Division of the Department of Health and Human Services to charge and collect a fee for a license to operate a medical facility, facility for the dependent or a home for individual residential care in this State and to charge and collect a fee for a permit which authorizes certain facilities and offices to offer to patients the service of general anesthesia, conscious sedation or deep sedation. Existing law also authorizes the Health Division to inspect and investigate such facilities and homes to ensure that the facilities and homes are in compliance with certain federal and state laws, regulations and standards. Furthermore, existing law requires facilities and offices that offer to patients the service of general anesthesia, conscious sedation or deep sedation and surgical centers for ambulatory patients to be inspected annually by the Health Division. (NRS 449.050, 449.060, 449.080, 449.150, 449.230, 449.235, 449.435-449.448) If a medical facility, facility for the dependent or a home for individual residential care passes a periodic inspection by the Health Division that is required by existing law, **section 2** of this bill: (1) requires the Health Division to conduct the next consecutive periodic inspection of the facility or home after the expiration of a period that is equal to one and one-half times the usual period between inspections that is required by state law, or that is equal to the period which is required by federal law or regulation, whichever is shorter; and (2) requires the Health Division to reduce by 25 percent certain fees for the licensing of the facility or home. **Section 3** of this bill sets forth similar provisions for a surgical center for ambulatory patients or an office of a physician or a facility which is required to obtain a permit to offer patients a service of general anesthesia, conscious sedation or deep sedation.

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 the provisions set forth as sections 2 and 3 of this act.

**Sec. 2.** *1. Notwithstanding any other provision of this chapter and except as otherwise provided in ~~subsections 2 and 3,~~ this section, if a medical facility, facility for the dependent or home for individual residential care passes a periodic inspection by the Health Division required by this chapter:*

*(a) The Health Division shall conduct the next consecutive periodic inspection of the facility or home after the expiration of a period that is equal to one and one-half times the period between inspections which is otherwise required by state law or regulation, or that is equal to the period between inspections which is required by federal law or regulation, whichever is shorter; and*

*(b) Notwithstanding the length of the period of the inspection required pursuant to paragraph (a), the Health Division shall reduce by 25 percent the amount of the fee charged by the Health Division for the next consecutive renewal of the license of the facility or home pursuant to NRS 449.060.*

*2. The provisions of this section do not apply to an inspection of ~~for investigation into~~ a medical facility, facility for the dependent or home for individual residential care if ~~the inspection or investigation is conducted.~~*

*(a) ~~Upon~~ The inspection is conducted upon the receipt of ~~an application~~ for a license or upon the receipt of a complaint pursuant to ~~subsection 2 of~~ NRS 449.150;*

*(b) ~~Pursuant~~ The inspection is conducted to allow the facility or home to correct any deficiencies discovered during a previous inspection;*

*(c) The inspection is conducted after a change is made to the license of the facility or home, including, without limitation, a change in the person who is licensed to operate or maintain the facility or home or in the ownership of the facility or home;*

*(d) The facility or home has had a substantiated complaint filed against it within the immediately preceding 12 months;*

*(e) The inspection is conducted pursuant to NRS 449.230; or*

*~~(e) Pursuant~~*

*(f) The inspection is conducted pursuant to NRS 449.235.*

*3. The Health Division shall establish by regulation the manner in which to determine whether a medical facility, facility for the dependent or home for individual residential care passes a periodic inspection for the purposes of subsection 1.*

*4. The provisions of this section do not exempt any medical facility, facility for the dependent or home for individual residential care from compliance with any applicable federal law or regulation governing the inspection or investigation of such facilities or homes.*

*~~4. For the purposes of subsection 1,~~*

*~~(a) A medical facility or facility for the dependent passes a periodic inspection if the Health Division does not find any violations for which the Health Division may impose an administrative sanction against the facility.~~*

*~~(b) A home for individual residential care passes a periodic inspection if the Health Division does not find any violations for which the Health Division could impose an administrative sanction if the home for individual residential care was a medical facility or facility for the dependent.~~*

1        **Sec. 3. 1. Notwithstanding any other provision of this chapter and except**  
2 **as otherwise provided in ~~subsections 2 and 3,~~ this subsection,** if an office of a  
3 physician or a facility which is required to obtain a permit pursuant to NRS  
4 449.442 or a surgical center for ambulatory patients passes a periodic inspection  
5 by the Health Division required by this chapter:

6        (a) The Health Division shall conduct the next consecutive periodic  
7 inspection of the office, facility or surgical center for ambulatory patients after  
8 the expiration of a period that is equal to one and one-half times the period  
9 between inspections which is otherwise required by state law or regulation, or  
10 that is equal to the period between inspections which is required by federal law or  
11 regulation, whichever is shorter; and

12        (b) Notwithstanding the length of the period of the inspection required  
13 pursuant to paragraph (a), the Health Division shall reduce by 25 percent the  
14 amount of the fee charged by the Health Division for the next consecutive  
15 renewal of ~~it~~ ;

16        (1) A permit issued to an office of a physician or facility pursuant to NRS  
17 449.444.

18        (2) A license issued to a surgical center for ambulatory patients pursuant  
19 to NRS 449.050.

20        2. The provisions of this section do not apply to an inspection of ~~for~~  
21 ~~investigation into~~ an office of a physician or a facility which is required to obtain  
22 a permit pursuant to NRS 449.442 or a surgical center for ambulatory patients if  
23 ~~the inspection or investigation is conducted upon the receipt of a complaint.~~ ;

24        (a) The inspection is conducted upon the receipt of an application for a  
25 license or a permit or upon the receipt of a complaint;

26        (b) The inspection is conducted to allow the office of a physician, facility or  
27 surgical center for ambulatory patients to correct any deficiencies discovered  
28 during a previous inspection;

29        (c) The inspection is conducted after a change is made to the license or  
30 permit of the office, facility or surgical center for ambulatory patients, including,  
31 without limitation, a change in the person who has a license or permit to operate  
32 or maintain the office, facility or surgical center for ambulatory patients or in the  
33 ownership of the office, facility or surgical center for ambulatory patients;

34        (d) The office, facility or surgical center for ambulatory patients has had a  
35 substantiated complaint filed against it within the immediately preceding 12  
36 months; or

37        (e) The inspection is an unannounced on-site inspection conducted pursuant  
38 to NRS 449.446.

39        3. The Health Division shall establish by regulation the manner in which to  
40 determine whether an office of a physician or a facility which is required to  
41 obtain a permit pursuant to NRS 449.442 or a surgical center for ambulatory  
42 patients passes a periodic inspection for the purposes of subsection 1.

43        4. The provisions of this section do not exempt any office of a physician or  
44 a facility which is required to obtain a permit pursuant to NRS 449.442 or a  
45 surgical center for ambulatory patients from compliance with any applicable  
46 federal law or regulation governing the inspection or investigation of such an  
47 office or facility or ~~a~~ surgical center for ambulatory patients.

48 ~~4. For the purposes of subsection 1, an office, facility or surgical center for~~  
49 ~~ambulatory patients passes a periodic inspection if the Health Division does not~~  
50 ~~find any violations for which the Health Division may impose an administrative~~  
51 ~~sanction against the office, facility or surgical center for ambulatory patients.~~

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

2       449.050 1. Except as otherwise provided in subsection 2 ~~and~~ *and section 2 of*  
3 *this act*, each application for a license must be accompanied by such fee as may be  
4 determined by regulation of the Board. The Board may, by regulation, allow or  
5 require payment of a fee for a license in installments and may fix the amount of  
6 each payment and the date that the payment is due.

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

9       3. ~~The~~ *Except as otherwise provided in section 2 of this act, the* fee  
10 imposed by the Board for a facility for transitional living for released offenders  
11 must be based on the type of facility that is being licensed and must be calculated to  
12 produce the revenue estimated to cover the costs related to the license, but in no  
13 case may a fee for a license exceed the actual cost to the Health Division of issuing  
14 or renewing the license.

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

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

20       449.070 The provisions of NRS 449.001 to 449.240, inclusive, *and section 2*  
21 *of this act* do not apply to:

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

28       2. Foster homes as defined in NRS 424.014.

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

31       **Sec. 6.** NRS 449.160 is hereby amended to read as follows:

32       449.160 1. The Health Division may deny an application for a license or  
33 may suspend or revoke any license issued under the provisions of NRS 449.001 to  
34 449.240, inclusive, *and section 2 of this act* upon any of the following grounds:

35       (a) Violation by the applicant or the licensee of any of the provisions of NRS  
36 439B.410 or 449.001 to 449.245, inclusive, *and section 2 of this act* or of any other  
37 law of this State or of the standards, rules and regulations adopted thereunder.

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

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

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

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

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

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

53       (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. 7.** NRS 449.441 is hereby amended to read as follows:

449.441 The provisions of NRS 449.435 to 449.448, inclusive, *and section 3 of this act* do not apply to an office of a physician or a facility that provides health care, other than a medical facility, if the office of a physician or the facility only administers a medication to a patient to relieve the patient's anxiety or pain and if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

**Sec. 8.** NRS 449.446 is hereby amended to read as follows:

449.446 1. ~~[(The)]~~ *Except as otherwise provided in section 3 of this act, the* Health Division shall conduct annual and unannounced on-site inspections of each office of a physician or a facility that provides health care, other than a medical facility, which holds a permit issued pursuant to NRS 449.443 and each surgical center for ambulatory patients which holds a license issued pursuant to this chapter.

2. An inspection conducted pursuant to this section must focus on the infection control practices and policies of the surgical center for ambulatory patients, the office or the facility that is the subject of the inspection. The Health Division may, as it deems necessary, conduct a more comprehensive inspection of a surgical center, office or facility.

3. Upon completion of an inspection, the Health Division shall:

(a) Compile a report of the inspection, including each deficiency discovered during the inspection, if any; and

(b) Forward a copy of the report to the surgical center for ambulatory patients, the office of the physician or the facility where the inspection was conducted.

4. If a deficiency is indicated in the report, the surgical center for ambulatory patients, the office of the physician or the facility shall correct each deficiency indicated in the report in the manner prescribed by the Board pursuant to NRS 449.448.

5. The Health Division shall annually prepare and submit to the Legislative Committee on Health Care and the Legislative Commission a report which includes:

(a) The number and frequency of inspections conducted pursuant to this section;

(b) A summary of deficiencies or other significant problems discovered while conducting inspections pursuant to this section and the results of any follow-up inspections; and

(c) Any other information relating to the inspections as deemed necessary by the Legislative Committee on Health Care or the Legislative Commission.

**Sec. 9.** NRS 449.447 is hereby amended to read as follows:

449.447 1. If an office of a physician or a facility that provides health care, other than a medical facility, violates the provisions of NRS 449.435 to 449.448, inclusive, *and section 3 of this act* or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to NRS 449.446, the Health Division, in accordance with the regulations adopted pursuant to NRS 449.448, may take any of the following actions:

(a) Decline to issue or renew a permit;

(b) Suspend or revoke a permit; or

(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.

2. The Health Division may review a report submitted pursuant to NRS 630.30665 or 633.524 to determine whether an office of a physician or a facility is in violation of the provisions of NRS 449.435 to 449.448, inclusive, *and section 3 of this act* or the regulations adopted pursuant thereto. If the Health Division determines that such a violation has occurred, the Health Division shall immediately notify the appropriate professional licensing board of the physician.

3. If a surgical center for ambulatory patients violates the provisions of NRS 449.435 to 449.448, inclusive, *and section 3 of this act* or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to NRS 449.446, the Health Division may impose administrative sanctions pursuant to NRS 449.163.

**Sec. 10.** This act becomes effective on July 1, 2011.