

## Amendment No. 238

Senate Amendment to Senate Bill No. 420 (BDR 40-158)

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

| 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.

LJM/RBL



Date: 4/19/2011

S.B. No. 420—Makes various changes relating to the operation of certain facilities for long-term care. (BDR 40-158)



SENATE BILL NO. 420—COMMITTEE ON  
HEALTH AND HUMAN SERVICES(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON SENIOR  
CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS)

MARCH 28, 2011

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes relating to the operation of certain facilities  
for long-term care. (BDR 40-158)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 facilities for long-term care; ~~requiring the State Board of Health to establish a uniform procedure for the comprehensive assessment of patients or residents of certain facilities that provide long-term care;~~ requiring certain facilities that provide long-term care to establish certain policies concerning the readmission to the facility after a patient is transferred out of the facility; ~~making various changes relating to the staffing levels of certain facilities that provide long-term care;~~ requiring certain facilities that provide long-term care to post certain information about persons or entities that have ownership or control over the facility; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

~~[Section 2 of this bill requires the State Board of Health to establish a uniform procedure to be used for conducting a comprehensive assessment to determine the level of care required by each patient or resident of a facility for intermediate care, facility for skilled nursing and residential facility for groups.]~~ **Section 3** of this bill requires a facility for intermediate care, facility for skilled nursing and residential facility for groups to adopt a written policy which establishes the length of time it will hold a bed for a patient or resident who must be temporarily transferred to another facility for medical reasons and which provides that such a patient or resident will be allowed to return to the first available bed if he or she does not return within the established time **, if the facility is suitable for properly caring for the patient.** **Section 3** further requires the facility to inform a patient or resident of these policies regarding readmission after a temporary transfer for medical reasons when the patient or resident is admitted to the facility.

~~[Section 4 of this bill requires each facility for intermediate care, facility for skilled nursing and residential facility for groups to annually report its staffing levels to the Health Division of the Department of Health and Human Services and further requires the Health~~

~~Division to establish staffing levels which it deems adequate to provide appropriate care for patients.]~~

Existing law requires certain information to be included on each license issued by the Health Division of the Department of Health and Human Services and requires the operator of a residential facility for groups to post his or her license in a conspicuous location in the facility. (NRS 449.085, 449.095) ~~[Section 7 of this bill requires the license issued to a facility for intermediate care, facility for skilled nursing or residential facility for groups to also contain the name and contact information regarding certain persons who have a certain level of ownership or control over the facility.]~~ Section 9 of this bill ~~[further]~~ requires ~~[these facilities]~~ a facility for intermediate care and a facility for skilled nursing to post the license, ~~[and]~~ information concerning the organizational structure of the management of the facility and contact information for the administrator and the representative of the owner or operator of the facility in a conspicuous location in the facility, and requires a residential facility for groups to post the same contact information with respect to the facility.

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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, 3 and 4 of this act.

**Sec. 2.** ~~[The Board shall, by regulation, establish a uniform procedure to be used for conducting a comprehensive assessment of each patient or resident of a facility for intermediate care, facility for skilled nursing or residential facility for groups to determine the level of care required for each patient or resident that must include, without limitation, an objective assessment of the physical and mental condition of the patient or resident.]~~ (Deleted by amendment.)

**Sec. 3.** 1. A facility for intermediate care, facility for skilled nursing and residential facility for groups shall adopt a written policy that establishes:

(a) The number of days the facility will hold the bed of a patient or resident for his or her return if the patient or resident is transferred temporarily to a hospital or other facility for medical reasons; and

(b) That a patient or resident who is so transferred for a period that exceeds the period of the hold established pursuant to paragraph (a) will be allowed to resume his or her residency as soon as a bed becomes available, if the facility is suitable for properly caring for the patient upon his or her return.

2. Upon admission of a patient or resident to a facility for intermediate care, facility for skilled nursing or residential facility for groups, the facility shall provide to the patient or resident and, if applicable, to the legal representative of the patient or resident, a copy of the policy established pursuant to subsection 1.

**Sec. 4.** ~~[1. On or before January 1 of each year, each facility for intermediate care, facility for skilled nursing and residential facility for groups shall submit to the Health Division an annual report of its staffing levels that it has maintained at the facility which includes, without limitation, the ratio of staff members who provide direct care to patients or residents.~~

~~2. The Health Division shall, by regulation, establish minimum staffing levels which it deems adequate to provide appropriate care to patients and residents of facilities for intermediate care, facilities for skilled nursing and residential facilities for groups.~~

~~3. The Health Division shall cause to be placed on the Internet website maintained by the Health Division the reports submitted pursuant to subsection 1 and the minimum staffing levels established pursuant to subsection 2.]~~ (Deleted by amendment.)

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

2       449.070 The provisions of NRS 449.001 to 449.240, inclusive, ~~and sections~~  
3 ~~2, section 3 and 4 of this act~~ do not apply to:

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

10       2. Foster homes as defined in NRS 424.014.

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

13       **Sec. 6.** NRS 449.080 is hereby amended to read as follows:

14       449.080 1. If, after investigation, the Health Division finds that the:

15       (a) Applicant is in full compliance with the provisions of NRS 449.001 to  
16 449.240, inclusive, ~~§~~, ~~and sections 2, section 3 and 4 of this act;~~

17       (b) Applicant is in substantial compliance with the standards and regulations  
18 adopted by the Board;

19       (c) Applicant, if he or she has undertaken a project for which approval is  
20 required pursuant to NRS 439A.100, has obtained the approval of the Director of  
21 the Department of Health and Human Services; and

22       (d) Facility conforms to the applicable zoning regulations,  
23       ↳ the Health Division shall issue the license to the applicant.

24       2. A license applies only to the person to whom it is issued, is valid only for  
25 the premises described in the license and is not transferable.

26       **Sec. 7.** ~~NRS 449.085 is hereby amended to read as follows:~~

27       ~~449.085 1. Each license issued by the Health Division shall be in the form~~  
28 ~~prescribed by the Division and shall contain:~~

29       ~~[1.] (a) The name of the person or persons authorized to operate such licensed~~  
30 ~~facility;~~

31       ~~[2.] (b) The location of such licensed facility; and~~

32       ~~[3.] (c) The number of beds authorized in such licensed facility, the nature of~~  
33 ~~services offered and the service delivery capacity.~~

34       ~~2. In addition to the information required pursuant to subsection 1, the~~  
35 ~~license issued by the Health Division to the licensee of a facility for intermediate~~  
36 ~~care, facility for skilled nursing or residential facility for groups shall contain the~~  
37 ~~name, address and telephone number of:~~

38       ~~(a) Each officer, director, member, partner, trustee, managing employee or~~  
39 ~~member of any governing body of the facility; and~~

40       ~~(b) Any other person or entity who:~~

41       ~~(1) Exercises operational, financial or managerial control over the~~  
42 ~~facility or any part thereof;~~

43       ~~(2) Leases or subleases property to the facility or who holds at least a 5~~  
44 ~~percent financial interest in the property; or~~

45       ~~(3) Provides services relating to the management, administration,~~  
46 ~~accounting or finances of the facility.) (Deleted by amendment.)~~

47       **Sec. 8.** NRS 449.091 is hereby amended to read as follows:

48       449.091 1. The Health Division may cancel the license of a medical facility  
49 or facility for the dependent and issue a provisional license, effective for a period  
50 determined by the Health Division, to such a facility if it:

51       (a) Is in operation at the time of the adoption of standards and regulations  
52 pursuant to the provisions of NRS 449.001 to 449.240, inclusive, ~~and sections 2,~~  
53 ~~section 3 and 4 of this act~~ and the Health Division determines that the facility

requires a reasonable time under the particular circumstances within which to comply with the standards and regulations; or

(b) Has failed to comply with the standards or regulations and the Health Division determines that the facility is in the process of making the necessary changes or has agreed to make the changes within a reasonable time.

2. The provisions of subsection 1 do not require the issuance of a license or prevent the Health Division from refusing to renew or from revoking or suspending any license where the Health Division deems such action necessary for the health and safety of the occupants of any facility.

**Sec. 9.** NRS 449.095 is hereby amended to read as follows:

449.095 1. A person who operates a residential facility for groups shall:

~~1. (a) Post his or her license to operate the residential facility for groups;~~

~~2. (b) Post the rates for services provided by the residential facility for groups~~ ~~1.;~~ and

(c) Post contact information for the administrator and the designated representative of the owner or operator of the facility.

↳ in a conspicuous place in the residential facility for groups.

2. *A person who operates a facility for intermediate care or facility for skilled nursing shall:*

*(a) Post his or her license to operate the facility* ~~;~~ ~~in a conspicuous place in the facility; and~~

*(b) Post the organizational structure of the management of the facility* ~~;~~ and

(c) Post contact information for the administrator and the designated representative of the owner or operator of the facility.

↳ in a conspicuous place in the facility for intermediate care or facility for skilled nursing.

**Sec. 10.** 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, section 3 and 4 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, section 3 and 4 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. 11.** 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, 3 and 4 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, 3 and 4 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. 12.** 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 ~~(1), and sections 2, 3 and 4 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. 13.** 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 ~~(1), and sections 2, 3 and 4 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 compliance with the plans and requirements to respond to an emergency adopted pursuant to subsection 9 of NRS 449.037:

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

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

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

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

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

**Sec. 14.** 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, ~~and sections 2, 3 and 4 of this act~~ as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

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

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

8 2. The Board shall give a licensee against whom proceedings are brought  
9 pursuant to this section written notice of a hearing pursuant to NRS 233B.121 and  
10 241.034. A licensee may waive, in writing, his or her right to attend the hearing.

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

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

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

24 **Sec. 15.** ~~{The State Board of Health and the Health Division of the~~  
25 ~~Department of Health and Human Services shall, on or before December 31, 2011,~~  
26 ~~adopt any regulations which are required by or necessary to carry out the provisions~~  
27 ~~of this act.}~~ **(Deleted by amendment.)**

28 **Sec. 16.** This act becomes effective on July 1, 2011.