

SENATE BILL NO. 246—SENATOR LESLIE

MARCH 16, 2011

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes concerning required training for employees who administer medication to a child at certain entities that have custody of the child pursuant to the order of a court. (BDR 40-796)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 protection of children; requiring the Administrator of the Health Division of the Department of Health and Human Services to approve or provide, to the extent possible, for training programs concerning the administration and management of medication for employees of certain entities that have custody of children pursuant to the order of a court; requiring certain employees of certain entities that have custody of such children successfully to complete a training program before administering medication to a child; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires certain employees of certain entities that have custody of
2 children pursuant to the order of a court to receive training on a variety of topics,
3 including the administration of medication to children. (NRS 62B.250, 63.190,
4 424.0365, 432A.177, 433B.175, 449.037) **Section 1** of this bill requires the
5 Administrator of the Health Division of the Department of Health and Human
6 Services, to the extent possible, to ensure that adequate training is available in this
7 State to provide necessary instruction concerning the administration and
8 management of medication to employees of public and private entities that have
9 custody of children pursuant to the order of a court. In addition, the Administrator
10 is required to maintain a list of approved training programs and make the list
11 available on the Internet website of the Department. **Section 2** of this bill requires
12 certain employees of a medical facility that accepts custody of children pursuant to
13 the order of a court successfully to complete a training program that has been
14 approved by the Administrator before the employee may be allowed to administer



medication to a child in the facility. Sections 8-12 of this bill impose the same requirement concerning the completion of a training program on an employee of: (1) a public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children; (2) a state facility for the detention or commitment of children; (3) a specialized foster home or a group foster home; (4) a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court; and (5) a treatment facility and any other facility of the Division of Child and Family Services of the Department of Health and Human Services into which a child may be committed by a court order.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Administrator shall, to the extent possible, ensure that adequate training concerning the administration and management of medication is available to employees of a governmental facility for children, a private facility for children, a group foster home or a specialized foster home that has custody of children pursuant to the order of a court. Such training must include, without limitation, instruction concerning the manner in which to:

- (a) Document the orders of the treating physician;*
- (b) Administer medication to a child;*
- (c) Store, handle and dispose of medication;*
- (d) Document the administration of medication and any errors in the administration of medication;*
- (e) Minimize errors in the administration of medication; and*
- (f) Address errors in the administration of medication.*

2. To ensure that adequate training is available pursuant to subsection 1, the Administrator may:

(a) Approve training programs offered by public or private entities that have the appropriate expertise to provide such training; and

(b) To the extent that money is available for that purpose, provide for training programs through the Health Division.

3. The Administrator shall maintain a list of programs that are approved to provide the training described in subsection 1 and shall cause the list to be placed on the Internet website maintained by the Department.

4. The Administrator is not required to comply with the provisions of chapter 233B of NRS to approve or provide for training programs pursuant to this section.

5. As used in this section:



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1 (a) "Governmental facility for children" has the meaning
2 ascribed to it in NRS 218G.520.

3 (b) "Group foster home" has the meaning ascribed to it in
4 NRS 424.015.

5 (c) "Private facility for children" has the meaning ascribed to
6 it in NRS 218G.535.

7 (d) "Specialized foster home" has the meaning ascribed to it in
8 NRS 424.018.

9 **Sec. 2.** Chapter 449 of NRS is hereby amended by adding
10 thereto a new section to read as follows:

11 1. *Except as otherwise provided in this section, a medical*
12 *facility that has custody of children pursuant to the order of a*
13 *court shall ensure that each employee of the medical facility who*
14 *will administer medication to such children receives training at*
15 *least annually in the administration and management of*
16 *medication through a program approved or provided by the*
17 *Administrator of the Health Division pursuant to section 1 of this*
18 *act.*

19 2. *The medical facility shall not allow an employee to*
20 *administer medication to a child in its custody pursuant to the*
21 *order of a court unless the employee has successfully completed*
22 *such training.*

23 3. *The provisions of this section do not apply to an*
24 *employee of:*

25 (a) *A residential facility for groups who is required to*
26 *complete the training and examination set forth in subsection 6 of*
27 *NRS 449.037.*

28 (b) *A medical facility who has a license or certificate issued*
29 *pursuant to chapter 630, 632 or 633 of NRS.*

30 **Sec. 3.** NRS 449.070 is hereby amended to read as follows:

31 449.070 The provisions of NRS 449.001 to 449.240, inclusive,
32 *and section 2 of this act* do not apply to:

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

40 2. Foster homes as defined in NRS 424.014.

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



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Sec. 4. 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 section 2 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 section 2 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.



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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. 5. 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 section 2 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,



1 *and section 2 of this act*, or any condition, standard or regulation
2 adopted by the Board to make any improvements necessary to
3 correct the violation.

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

8 **Sec. 6.** NRS 449.220 is hereby amended to read as follows:

9 449.220 1. The Health Division may bring an action in the
10 name of the State to enjoin any person, state or local government
11 unit or agency thereof from operating or maintaining any facility
12 within the meaning of NRS 449.001 to 449.240, inclusive ~~§~~, *and*
13 *section 2 of this act*:

14 (a) Without first obtaining a license therefor; or

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

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

20 **Sec. 7.** NRS 449.240 is hereby amended to read as follows:

21 449.240 The district attorney of the county in which the facility
22 is located shall, upon application by the Health Division, institute
23 and conduct the prosecution of any action for violation of any
24 provisions of NRS 449.001 to 449.245, inclusive ~~§~~, *and section 2*
25 *of this act*.

26 **Sec. 8.** NRS 62B.250 is hereby amended to read as follows:

27 62B.250 1. A public or private institution or agency to which
28 a juvenile court commits a child, including, without limitation, a
29 facility for the detention of children, shall ensure that each employee
30 who comes into direct contact with children who are in custody
31 receives training within 30 days after employment and annually
32 thereafter. Such training must include, without limitation,
33 instruction concerning:

34 (a) Controlling the behavior of children;

35 (b) Policies and procedures concerning the use of force and
36 restraint on children;

37 (c) The rights of children in the institution or agency;

38 (d) Suicide awareness and prevention;

39 (e) The administration of medication to children;

40 (f) Applicable state and federal constitutional and statutory
41 rights of children in the institution or agency;

42 (g) Policies and procedures concerning other matters affecting
43 the health, welfare, safety and civil and other rights of children in
44 the institution or agency; and



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(h) Such other matters as required by the Division of Child and Family Services.

2. *The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department of Health and Human Services pursuant to section 1 of this act. A public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, shall not allow an employee to administer medication to a child in its custody unless the employee has successfully completed such training.*

3. The Division of Child and Family Services shall adopt regulations necessary to carry out the provisions of this section.

Sec. 9. NRS 63.190 is hereby amended to read as follows:

63.190 1. The superintendent of a facility shall ensure that each employee who comes into direct contact with children in the facility receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:

(a) Controlling the behavior of children;

(b) Policies and procedures concerning the use of force and restraint on children;

(c) The rights of children in the facility;

(d) Suicide awareness and prevention;

(e) The administration of medication to children;

(f) Applicable state and federal constitutional and statutory rights of children in the home;

(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; and

(h) Such other matters as required by the Administrator of the Division of Child and Family Services.

2. *The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department of Health and Human Services pursuant to section 1 of this act. The superintendent of a facility shall not allow an employee to administer medication to a child in its custody unless the employee has successfully completed such training.*

3. The Administrator of the Division of Child and Family Services shall provide direction to the superintendent of each facility concerning the manner in which to carry out the provisions of this section.



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Sec. 10. NRS 424.0365 is hereby amended to read as follows:

424.0365 1. A licensee that operates a specialized foster home or a group foster home shall ensure that each employee who comes into direct contact with children in the home receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:

- (a) Controlling the behavior of children;
- (b) Policies and procedures concerning the use of force and restraint on children;
- (c) The rights of children in the home;
- (d) Suicide awareness and prevention;
- (e) The administration of medication to children;
- (f) Applicable state and federal constitutional and statutory rights of children in the home;
- (g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the home; and
- (h) Such other matters as required by the licensing authority or pursuant to regulations of the Division.

2. The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department of Health and Human Services pursuant to section 1 of this act. A licensee that operates a specialized foster home or a group foster home shall not allow an employee to administer medication to a child in such a home unless the employee has successfully completed such training.

3. The Division shall adopt regulations necessary to carry out the provisions of this section.

Sec. 11. NRS 432A.177 is hereby amended to read as follows:

432A.177 1. A licensee that operates a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court, including, without limitation, an emergency shelter, shall ensure that each employee who comes into direct contact with children in the facility receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:

- (a) Controlling the behavior of children;
- (b) Policies and procedures concerning the use of force and restraint on children;
- (c) The rights of children in the facility;
- (d) Suicide awareness and prevention;
- (e) The administration of medication to children;



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(f) Applicable state and federal constitutional and statutory rights of children in the facility;

(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; and

(h) Such other matters as required by the Board.

2. *The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department pursuant to section 1 of this act. A licensee that operates a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court, including, without limitation, an emergency shelter, shall not allow an employee to administer medication to a child in the child care facility unless the employee has successfully completed such training.*

3. The Board shall adopt regulations necessary to carry out the provisions of this section.

Sec. 12. NRS 433B.175 is hereby amended to read as follows:

433B.175 1. The Administrator shall ensure that each employee who comes into direct contact with children at any treatment facility and any other division facility into which a child may be committed by a court order receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:

(a) Controlling the behavior of children;

(b) Policies and procedures concerning the use of force and restraint on children;

(c) The rights of children in the facility;

(d) Suicide awareness and prevention;

(e) The administration of medication to children;

(f) Applicable state and federal constitutional and statutory rights of children in the facility;

(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; and

(h) Such other matters as required by the Board.

2. *The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department pursuant to section 1 of this act. The Administrator of the Division of Child and Family Services shall not allow an employee to administer medication to a child at any treatment*



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facility and any other division facility into which a child may be committed by a court order unless the employee has successfully completed such training.

3. The Division shall adopt regulations necessary to carry out the provisions of this section.

Sec. 13. 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 section 2 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.



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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. 14. 1. An employee of a governmental facility for children, a group foster home, a private facility for children or a specialized foster home that has custody of a child pursuant to the order of a court who has not successfully completed training in the administration and management of medication through a program that has been approved by the Administrator of the Health Division of the Department of Health and Human Services as required pursuant to sections 2 and 8 to 12, inclusive, of this act, as applicable, on January 1, 2012, may continue to administer medication to a child in the custody of the facility or home if the person is authorized to do so on January 1, 2012, but must complete such training on or before March 31, 2012.

2. As used in this section:

(a) "Governmental facility for children" has the meaning ascribed to it in NRS 218G.520.

(b) "Group foster home" has the meaning ascribed to it in NRS 424.015.

(c) "Private facility for children" has the meaning ascribed to it in NRS 218G.535.

(d) "Specialized foster home" has the meaning ascribed to it in NRS 424.018.

Sec. 15. This act becomes effective upon passage and approval for the purpose of taking such actions as are necessary to ensure that adequate training programs concerning the administration and management of medication are available in this State and for performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on January 1, 2012, for all other purposes.

