

SENATE BILL NO. 246—SENATOR LESLIE

MARCH 16, 2011

Referred to Committee on Health and Human Services

SUMMARY—Requires certain entities that have custody of a child pursuant to the order of a court to adopt a policy concerning the administration and management of medication. (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 certain entities that have custody of children pursuant to the order of a court to adopt a policy concerning the administration and management of medication; requiring such entities to ensure that employees who will administer medication to a child receive a copy of and understand the policy; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain employees of certain entities that have custody of children pursuant to the order of a court to receive training on a variety of topics, including the administration of medication to children. (NRS 62B.250, 63.190, 424.0365, 432A.177, 433B.175, 449.037) **Section 2** of this bill requires a medical facility that accepts custody of children pursuant to the order of a court to adopt a policy concerning the administration and management of medication and to ensure that each employee of the medical facility who will administer medication to a child in the facility receives a copy of and understands the policy. **Sections 8.5-12.5** of this bill impose the same requirement on: (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. (Deleted by amendment.)

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

1. Except as otherwise provided in this section, a medical facility that has custody of a child pursuant to the order of a court shall adopt a policy concerning the manner in which to:

(a) Document the orders of the treating physician of a child;

(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. Such a medical facility shall ensure that each employee of the medical facility who will administer medication to such a child receives a copy of and understands the policy adopted pursuant to subsection 1.

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

449.070 The provisions of NRS 449.001 to 449.240, inclusive, *and section 2 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. 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.

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



1 provision of NRS 439B.410 or 449.001 to 449.240, inclusive, *and*
2 *section 2 of this act*, or any condition, standard or regulation
3 adopted by the Board, the Health Division, in accordance with the
4 regulations adopted pursuant to NRS 449.165, may:

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

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

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

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

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

20 (2) Improvements are made to correct the violation.

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

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

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

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

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

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

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

43 449.220 1. The Health Division may bring an action in the
44 name of the State to enjoin any person, state or local government
45 unit or agency thereof from operating or maintaining any facility



1 within the meaning of NRS 449.001 to 449.240, inclusive **H**, and
2 *section 2 of this act:*

3 (a) Without first obtaining a license therefor; or
4 (b) After his or her license has been revoked or suspended by
5 the Health Division.

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

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

10 449.240 The district attorney of the county in which the facility
11 is located shall, upon application by the Health Division, institute
12 and conduct the prosecution of any action for violation of any
13 provisions of NRS 449.001 to 449.245, inclusive **H**, and *section 2*
14 *of this act.*

15 **Sec. 8.** (Deleted by amendment.)

16 **Sec. 8.5.** Chapter 62B of NRS is hereby amended by adding
17 thereto a new section to read as follows:

18 *1. A public or private institution or agency to which a*
19 *juvenile court commits a child, including, without limitation, a*
20 *facility for the detention of children, shall adopt a policy*
21 *concerning the manner in which to:*

22 *(a) Document the orders of the treating physician of a child;*

23 *(b) Administer medication to a child;*

24 *(c) Store, handle and dispose of medication;*

25 *(d) Document the administration of medication and any errors*
26 *in the administration of medication;*

27 *(e) Minimize errors in the administration of medication; and*

28 *(f) Address errors in the administration of medication.*

29 *2. Such an institution or agency shall ensure that each*
30 *employee of the institution or agency who will administer*
31 *medication to a child at the institution or agency receives a copy of*
32 *and understands the policy adopted pursuant to subsection 1.*

33 **Sec. 9.** (Deleted by amendment.)

34 **Sec. 9.5.** Chapter 63 of NRS is hereby amended by adding
35 thereto a new section to read as follows:

36 *1. The superintendent of a facility shall adopt a policy*
37 *concerning the manner in which to:*

38 *(a) Document the orders of the treating physician of a child;*

39 *(b) Administer medication to a child;*

40 *(c) Store, handle and dispose of medication;*

41 *(d) Document the administration of medication and any errors*
42 *in the administration of medication;*

43 *(e) Minimize errors in the administration of medication; and*

44 *(f) Address errors in the administration of medication.*



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2. *The superintendent shall ensure that each employee of the facility who will administer medication to a child at the facility receives a copy of and understands the policy adopted pursuant to subsection 1.*

Sec. 10. (Deleted by amendment.)

Sec. 10.5. Chapter 424 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A licensee that operates a specialized foster home or a group foster home shall adopt a policy concerning the manner in which to:*

- (a) *Document the orders of the treating physician of a child;*
- (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. *The licensee shall ensure that each employee of the specialized foster home or group foster home who will administer medication to a child at the specialized foster home or group foster home receives a copy of and understands the policy adopted pursuant to subsection 1.*

Sec. 10.7. NRS 424.090 is hereby amended to read as follows: 424.090 The provisions of NRS 424.020 to 424.090, inclusive, *and section 10.5 of this act*, do not apply to homes in which:

1. Care is provided only for a neighbor's or friend's child on an irregular or occasional basis for a brief period, not to exceed 90 days.

2. Care is provided by the legal guardian.

3. Care is provided for an exchange student.

4. Care is provided to enable a child to take advantage of educational facilities that are not available in his or her home community.

5. Any child or children are received, cared for and maintained pending completion of proceedings for adoption of such child or children, except as otherwise provided in regulations adopted by the Division.

6. Except as otherwise provided in regulations adopted by the Division, care is voluntarily provided to a minor child who is:

- (a) Related to the caregiver by blood, adoption or marriage; and
- (b) Not in the custody of an agency which provides child welfare services.

7. Care is provided to a minor child who is in the custody of an agency which provides child welfare services pursuant to chapter 432B of NRS if:



(a) The caregiver is related to the child within the fifth degree of consanguinity; and

(b) The caregiver is not licensed pursuant to the provisions of NRS 424.020 to 424.090, inclusive ~~H~~, *and section 10.5 of this act.*

Sec. 11. (Deleted by amendment.)

Sec. 11.5. Chapter 432A of NRS is hereby amended by adding thereto a new section to read as follows:

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 adopt a policy concerning the manner in which to:

(a) Document the orders of the treating physician of a child;

(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. The licensee shall ensure that each employee of the child care facility who will administer medication to a child at the child care facility receives a copy of and understands the policy adopted pursuant to subsection 1.

Sec. 11.7. NRS 432A.220 is hereby amended to read as follows:

432A.220 Any person who operates a child care facility without a license issued pursuant to NRS 432A.131 to 432A.220, inclusive, *and section 11.5 of this act* is guilty of a misdemeanor.

Sec. 12. (Deleted by amendment.)

Sec. 12.5. Chapter 433B of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Administrator shall adopt a policy for each treatment facility and any other division facility into which a child may be committed by a court order concerning the manner in which to:

(a) Document the orders of the treating physician of a child;

(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. The Administrator shall ensure that each employee who comes into direct contact with a child at any treatment facility and any other division facility into which a child may be committed by a court order and who will administer medication to a child



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1 *receives a copy of and understands the policy adopted pursuant to*
2 *subsection 1.*

3 **Sec. 13.** NRS 654.190 is hereby amended to read as follows:

4 654.190 1. The Board may, after notice and a hearing as
5 required by law, impose an administrative fine of not more than
6 \$10,000 for each violation on, recover reasonable investigative fees
7 and costs incurred from, suspend, revoke, deny the issuance or
8 renewal of or place conditions on the license of, and place on
9 probation or impose any combination of the foregoing on any
10 nursing facility administrator or administrator of a residential
11 facility for groups who:

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

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

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

17 (d) Aids or abets any person in the violation of any of the
18 provisions of NRS 449.001 to 449.240, inclusive, *and section 2 of*
19 *this act*, as those provisions pertain to a facility for skilled nursing,
20 facility for intermediate care or residential facility for groups.

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

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

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

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

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

42 5. The expiration of a license by operation of law or by order
43 or decision of the Board or a court, or the voluntary surrender of a
44 license, does not deprive the Board of jurisdiction to proceed with



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- 1 any investigation of, or action or disciplinary proceeding against, the
- 2 licensee or to render a decision suspending or revoking the license.
- 3 **Sec. 14.** (Deleted by amendment.)
- 4 **Sec. 15.** This act becomes effective on January 1, 2012.

