

SENATE BILL NO. 362—SENATORS SPEARMAN
AND SEGERBLOM

MARCH 18, 2013

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes concerning health care facilities that employ nurses. (BDR 40-710)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§§ 8-16)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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 health care facilities; requiring certain health care facilities that employ nurses to establish a staffing plan and to provide adequate staffing; requiring the maintenance of certain records concerning statistics relating to patients and staffing; requiring such a health care facility to establish policies pursuant to which a direct care nurse may refuse a work assignment; requiring public disclosure of certain information relating to a staffing plan; repealing requirements for certain hospitals and health care facilities concerning staffing committees and staffing plans; providing administrative and criminal penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- Existing law requires: (1) certain hospitals in a county whose population is 100,000 or more (currently Clark and Washoe Counties) to establish a staffing committee; and (2) certain health care facilities in a county whose population is 100,000 or more to make available to the Health Division of the Department of Health and Human Services a documented staffing plan. (NRS 449.242, 449.2421) **Section 32** of this bill repeals those provisions.
- Instead, **sections 9 and 24** of this bill require health care facilities in counties with a population of 100,000 or more (currently Clark and Washoe Counties) to submit annually to the Health Division a documented staffing plan for the provision of nursing services that the health care facility certifies is sufficient to ensure the



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adequate and appropriate delivery of health care services for the ensuing year. **Section 10** of this bill requires that the staffing plan include ratios of the maximum number of patients that may be assigned to a direct care nurse. **Section 10** also establishes nurse-to-patient ratios that vary depending on the nature of nursing care that is required for patients in particular units of the health care facility. In addition, **section 10** provides exceptions to those ratios if: (1) the staffing plan is developed by a joint labor-management committee or pursuant to a collective bargaining agreement; (2) the health care facility establishes a joint labor-management committee to resolve disputes relating to nurse staffing issues; or (3) the State Board of Health establishes higher ratios pursuant to **section 11** of this bill. **Section 13** of this bill requires a health care facility to operate in conformity with its staffing plan. **Sections 12-16** of this bill impose other operating requirements on a health care facility concerning its staffing plan. **Sections 18-23** of this bill authorize the Labor Commissioner, the Health Division and the Department to enforce those parts of a health care facility's staffing plan that fall within their respective jurisdictions.

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 to 24, inclusive, of this act.

Sec. 2. *“Acuity system” means an established measurement system or method which:*

1. Predicts the requirements for nursing care for a patient based on the severity of the illness of the patient, the need for specialized equipment and technology, the intensity of nursing interventions required and the complexity of clinical nursing judgment required to design, carry out and evaluate the plan for nursing care for the patient;

2. Details the amount of daily nursing care required both in the number of nurses and in the skill mix of nursing personnel required for each patient in a unit;

3. Is stated in terms that can be readily used and understood by the direct care nursing staff; and

4. Takes into consideration the services for nursing care provided by health care employees other than licensed nurses.

Sec. 3. *“Certified nursing assistant” means a person who has been certified by the State Board of Nursing pursuant to NRS 632.2852 to practice as a nursing assistant in this State.*

Sec. 4. *“Direct care nurse” means a registered nurse who has principal responsibility to oversee or carry out medical regimens or nursing care for one or more patients.*

Sec. 5. *“Documented staffing plan” means a detailed written plan setting forth the minimum number, skill mix and classification of licensed nurses required in each unit in a health*



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1 *care facility for a specific year based on reasonable projections*
2 *derived from the patient census and average acuity level within*
3 *each unit during the previous year, if applicable, the size and*
4 *geography of the unit, the nature of services provided and any*
5 *foreseeable changes in the size or function of the unit during the*
6 *current year.*

7 **Sec. 6.** *“Skill mix” means the totality of particular nursing*
8 *skills that are necessary to provide adequate care to a patient in a*
9 *unit of a health care facility.*

10 **Sec. 7.** *“Staffing level” means the actual numerical nurse-to-*
11 *patient ratio by licensed nurse classification within a unit.*

12 **Sec. 8.** *A health care facility shall ensure that it is staffed in*
13 *accordance with NRS 449.241 to 449.2418, inclusive, and sections*
14 *2 to 24, inclusive, of this act in such a manner as to provide*
15 *sufficient, appropriately qualified nursing staff of each*
16 *classification in each unit within the health care facility to meet*
17 *the individualized needs for nursing care of the patients therein.*

18 **Sec. 9. 1.** *As a condition of licensing, a health care facility*
19 *shall annually submit to the Health Division a documented*
20 *staffing plan and a written certification that the documented*
21 *staffing plan is sufficient to provide adequate and appropriate*
22 *delivery of health care services to patients for the ensuing year.*
23 *The documented staffing plan must:*

24 *(a) Include staffing ratios that meet the minimum*
25 *requirements set forth in section 10 of this act;*

26 *(b) Be adequate to meet all other requirements related to*
27 *staffing established by specific statute, and any regulations*
28 *adopted pursuant thereto, that may be applicable;*

29 *(c) Identify and use an acuity system that has been approved*
30 *by the Health Division to address fluctuations in actual acuity*
31 *levels of patients and requirements for nursing care that require*
32 *staffing levels above the minimum staffing ratios set forth in the*
33 *plan;*

34 *(d) Factor in other activities in each unit, including, without*
35 *limitation, discharges, transfers, admissions and administrative*
36 *and support tasks, that are expected to be performed by direct care*
37 *nurses in addition to the provision of nursing care;*

38 *(e) Identify the assessment tool used to validate the acuity*
39 *system upon which the plan relies;*

40 *(f) Identify the system or method that will be used to document*
41 *actual staffing within each unit on a daily basis;*

42 *(g) If applicable, include a written assessment of the accuracy*
43 *of the plan during the previous year based on the actual staffing*
44 *needs during that year; and*



(h) Identify each classification of the nursing staff referred to in the plan and include a statement that sets forth the minimum qualifications for each such classification.

2. A health care facility shall develop its documented staffing plan in consultation with the direct care nursing staff for each unit in the health care facility or, if the direct care nursing staff is represented by a recognized collective bargaining unit, with the representatives of the collective bargaining unit.

3. As used in this section, "assessment tool" means a measurement system pursuant to which the accuracy of an acuity system is reviewed by comparing the staffing level in each unit against the actual requirements for nursing care.

Sec. 10. 1. Except as otherwise provided in this section and section 11 of this act, a documented staffing plan must include the following ratios of the maximum number of patients that may be assigned to a direct care nurse in each unit in the health care facility:

(a) A ratio of one direct care nurse to one patient in each:

(1) Operating room; and

(2) Trauma emergency unit.

(b) A ratio of one direct care nurse to two patients in each:

(1) Critical care unit;

(2) Intensive care unit;

(3) Labor and delivery unit; and

(4) Postanesthesia unit.

(c) A ratio of one direct care nurse to three patients in each:

(1) Antepartum unit;

(2) Emergency room;

(3) Pediatric unit;

(4) Intermediate unit, commonly known as a step-down unit; and

(5) Telemetry unit.

(d) A ratio of one direct care nurse to four patients in each:

(1) Intermediate care nursery; and

(2) Medical, surgical and acute care psychiatric unit.

(e) A ratio of one direct care nurse to five patients in each rehabilitation unit.

(f) A ratio of one direct care nurse to six patients in each:

(1) Postpartum unit, including units providing care to not more than three couples; and

(2) Nursery for well babies.

(g) Such other ratios, as determined by the Board, for any units not otherwise identified in this subsection, including, without limitation, psychiatric units in health care facilities other than



1 hospitals that provide acute care, geriatric units and any other
2 units that provide specialty care.

3 2. A nurse, including a nurse administrator or supervisor,
4 who does not have principal responsibility for caring for a patient,
5 as would a direct care nurse, must not be included in the
6 calculation of any nurse-to-patient ratios established pursuant to
7 subsection 1.

8 3. A health care facility shall adjust its minimum staffing
9 ratios as necessary to reflect the need for additional direct care
10 nurses to ensure that each unit within the health care facility is
11 adequately staffed. The adjustment must be made in accordance
12 with an approved acuity system.

13 4. A health care facility that includes a licensed practical
14 nurse or a certified nursing assistant in the nursing staff of a unit
15 of the health care facility shall include in its documented staffing
16 plan the following ratios for the maximum number of patients that
17 may be assigned to a licensed practical nurse or a certified
18 nursing assistant in the unit:

19 (a) A ratio of one licensed practical nurse to six patients in any
20 unit.

21 (b) A ratio of one certified nursing assistant to eight patients in
22 any unit.

23 5. The provisions of this section do not apply to a health care
24 facility if:

25 (a) The documented staffing plan of the health care facility:

26 (1) Is developed by a joint labor-management committee or
27 pursuant to a collective bargaining agreement with the
28 appropriate recognized bargaining unit; and

29 (2) Includes a provision for the enforcement of the
30 documented staffing plan and the resolution of any dispute
31 concerning the documented staffing plan that authorizes either
32 side to call for binding arbitration of the dispute; or

33 (b) The health care facility has established a joint labor-
34 management committee to resolve issues related to staffing ratios
35 pursuant to which either side is authorized to request binding
36 arbitration or, if the joint labor-management committee is
37 established pursuant to a collective bargaining agreement, the
38 bargaining unit is authorized to issue a notice of intent to strike
39 pursuant to the terms of the collective bargaining agreement in
40 lieu of binding arbitration.

41 ➡ For the purposes of this subsection, a joint labor-management
42 committee must be composed of equal numbers of management
43 and nonmanagement employees of the health care facility who are
44 appointed by management and labor, respectively, or pursuant to a
45 collective bargaining agreement.



Sec. 11. *The Health Division shall adopt:*

1. Regulations prescribing the methods by which it will approve an acuity system for use by a health care facility, including, without limitation, a system for class approval of acuity systems; and

2. Such other regulations as are necessary to carry out the provisions of NRS 449.241 to 449.2418, inclusive, and sections 2 to 24, inclusive, of this act, including, without limitation:

(a) Regulations concerning the submission of a documented staffing plan by a health care facility; and

(b) Regulations that establish nurse-to-patient staffing ratios that are higher than the ratios set forth in section 10 of this act.

Sec. 12. *1. The skill mix reflected in the documented staffing plan of a health care facility must ensure that all the following elements of the nursing process are performed in the planning and delivery of nursing care for each patient:*

(a) Assessment;

(b) Nursing diagnosis;

(c) Planning;

(d) Intervention;

(e) Evaluation; and

(f) Patient recovery.

2. The skill mix in a documented staffing plan for a health care facility must not require or assume that any functions relating to nursing care required by chapter 632 of NRS, and any regulations adopted pursuant thereto, or any other recognized standards for the practice of nursing required to be performed by a registered nurse are to be performed by a licensed practical nurse, a certified nursing assistant or any other person who is not a registered nurse.

Sec. 13. *1. As a condition of licensure, a health care facility must at all times be staffed in accordance with its documented staffing plan, except that the provisions of this subsection do not preclude a health care facility from providing higher direct care nurse-to-patient staffing ratios than the ratios otherwise established in its documented staffing plan.*

2. A health care facility may assign a nurse to a unit or a clinical area and include the nurse in the count of assigned nursing staff for the purposes of compliance with its minimum required staffing level if:

(a) The nurse is appropriately licensed for assignment to that unit or clinical area;

(b) The health care facility has provided prior orientation to the nurse before assigning the nurse to that unit or clinical area; and



(c) *The health care facility has verified that the nurse is capable of providing competent nursing care to the patients in that unit or clinical area.*

Sec. 14. *1. As a condition of licensure, a health care facility must maintain accurate daily records showing for each unit:*

(a) The number of patients admitted, released and present in the unit;

(b) The individual acuity level of each patient present in the unit; and

(c) The identity and duty hours of each direct care nurse in the unit.

2. As a condition of licensure, a health care facility must maintain daily statistics, by unit, of mortality, morbidity, infection, accident, injury and medical errors.

3. Records required to be kept pursuant to this section must be:

(a) Maintained for at least 7 years; and

(b) Available upon request to the Health Division and the general public, except that records released to the general public must not contain any personal identifying information, other than the acuity level, concerning a person.

Sec. 15. *1. As a condition of licensure, a health care facility must adopt and disseminate to its direct care nursing staff a written policy that sets forth the circumstances under which a direct care nurse may refuse a work assignment.*

2. The written policy concerning work assignments must, at a minimum, allow a direct care nurse to refuse an assignment:

(a) For which the direct care nurse is not prepared because of lack of education, training or experience to fulfill safely and without compromising or jeopardizing the safety of the patients, the ability of the direct care nurse to meet foreseeable needs of the patients and the licensure of the direct care nurse; or

(b) Which otherwise violates any provision of NRS 449.241 to 449.2418, inclusive, and sections 2 to 24, inclusive, of this act.

3. The written policy concerning work assignments must contain:

(a) Reasonable requirements for prior notice to the supervisor of the direct care nurse of the request, including supporting reasons, by the direct care nurse to be relieved of the work assignment;

(b) Reasonable requirements which provide, if feasible, an opportunity for the supervisor to review a request by the direct care nurse to be relieved of the work assignment, including any



1 *specific conditions supporting the request, and based upon that*
2 *review:*

3 *(1) Relieve the direct care nurse of the work assignment as*
4 *requested; or*

5 *(2) Deny the request; and*

6 *(c) A process pursuant to which a direct care nurse may*
7 *exercise his or her right to refuse a work assignment if the*
8 *supervisor denies the request of the nurse to be relieved of the*
9 *work assignment if:*

10 *(1) The supervisor rejected the request without proposing a*
11 *remedy or, if a remedy is proposed, the proposed remedy would be*
12 *inadequate or untimely;*

13 *(2) The process for filing a complaint with the Health*
14 *Division or any other appropriate regulatory entity, including any*
15 *investigation that would be required, would be untimely to address*
16 *the concerns of the direct care nurse in refusing a work*
17 *assignment; and*

18 *(3) The direct care nurse in good faith believes that the*
19 *work assignment meets the conditions established in the written*
20 *policy justifying refusal.*

21 **Sec. 16.** *1. A health care facility shall post in a conspicuous*
22 *place that is readily accessible to the general public a notice*
23 *prepared by the Health Division that sets forth in summary form*
24 *the mandatory provisions of NRS 449.241 to 449.2418, inclusive,*
25 *and sections 2 to 24, inclusive, of this act. Mandatory and actual*
26 *staffing levels of nurses in each unit must be posted daily in a*
27 *conspicuous place that is readily accessible to the general public.*

28 *2. Upon request, a health care facility shall make available to*
29 *the general public copies of its documented staffing plan filed with*
30 *the Health Division. The health care facility shall post in each unit*
31 *within the health care facility, or otherwise make readily available*
32 *to the nursing staff in that unit, during each work shift:*

33 *(a) A copy of the current documented staffing plan for that*
34 *unit;*

35 *(b) Documentation of the number of direct care nurses*
36 *required to be present during the work shift based on the approved*
37 *adopted acuity system; and*

38 *(c) Documentation of the actual number of direct care nurses*
39 *present during the work shift.*

40 **Sec. 17.** *The Health Division shall ensure the general*
41 *compliance of a health care facility with the provisions of NRS*
42 *449.241 to 449.2418, inclusive, and sections 2 to 24, inclusive, of*
43 *this act relating to documented staffing plans and adopt such*
44 *regulations as are necessary or appropriate to carry out the*



1 *provisions of this section. The regulations must, without*
2 *limitation, provide:*

3 1. *For unannounced, random visits at a health care facility to*
4 *determine whether the facility is in compliance with NRS 449.241*
5 *to 449.2418, inclusive, and sections 2 to 24, inclusive, of this act;*

6 2. *An accessible and confidential system pursuant to which*
7 *the nursing staff or the general public may report the failure of a*
8 *health care facility to comply with the requirements of NRS*
9 *449.241 to 449.2418, inclusive, and sections 2 to 24, inclusive, of*
10 *this act;*

11 3. *A systematic means for investigating and correcting*
12 *violations of any provision of NRS 449.241 to 449.2418, inclusive,*
13 *and sections 2 to 24, inclusive, of this act;*

14 4. *For public access to information regarding reports of*
15 *inspections, results, deficiencies and corrections; and*

16 5. *A process for imposing the penalties for violations of the*
17 *staffing requirements set forth in NRS 449.241 to 449.2418,*
18 *inclusive, and sections 2 to 24, inclusive, of this act.*

19 **Sec. 18.** *Notwithstanding any provision of NRS 449.241 to*
20 *449.2418, inclusive, and sections 2 to 24, inclusive, of this act to*
21 *the contrary, the Labor Commissioner may take such actions as*
22 *the Labor Commissioner determines necessary to ensure that a*
23 *health care facility is in compliance with NRS 449.241 to*
24 *449.2418, inclusive, and sections 2 to 24, inclusive, of this act.*

25 **Sec. 19.** *If the Health Division determines that a health care*
26 *facility has violated any provision of NRS 449.241 to 449.2418,*
27 *inclusive, and sections 2 to 24, inclusive, of this act, the Health*
28 *Division may:*

29 1. *Suspend or revoke the license of the health care facility*
30 *pursuant to NRS 449.160.*

31 2. *Impose an administrative fine:*

32 (a) *If the health care facility has violated any requirements*
33 *relating to staffing set forth in NRS 449.241 to 449.2418,*
34 *inclusive, and sections 2 to 24, inclusive, of this act, of \$15,000 per*
35 *day, per violation, for each day that the violation occurs or*
36 *continues.*

37 (b) *If the health care facility has failed to post the notice as*
38 *required by section 16 of this act, of \$1,000 for each day that the*
39 *notice is not posted as required.*

40 (c) *If the health care facility has violated any provision of*
41 *section 15 of this act, of \$15,000 per violation.*

42 **Sec. 20.** 1. *If, after an investigation, the Health Division*
43 *determines that a health care facility is not in compliance with any*
44 *provision of NRS 449.241 to 449.2418, inclusive, and sections 2 to*
45 *24, inclusive, of this act or any regulations adopted pursuant*



1 *thereto, the Health Division shall notify the health care facility of*
2 *all deficiencies in its compliance. The notice may include an order*
3 *to take corrective action within a time specified, including, without*
4 *limitation:*

5 *(a) Revising the documented staffing plan of the health care*
6 *facility;*

7 *(b) Reducing the number of patients within a unit in the health*
8 *care facility;*

9 *(c) Temporarily closing a unit to any further admissions of*
10 *patients until corrections are made; and*

11 *(d) Temporarily transferring patients to another unit within*
12 *the health care facility until corrections are made.*

13 *2. The Health Division may issue an order to take corrective*
14 *action on an emergency basis, without prior notice or opportunity*
15 *for a hearing, if the investigation by the Health Division*
16 *demonstrates that the noncompliance of the health care facility is*
17 *compromising patient care or poses an immediate danger to the*
18 *health or safety of patients.*

19 *3. An order to take corrective action issued by the Health*
20 *Division pursuant to this section must be in writing and contain a*
21 *statement of the reasons for issuing the order. If a health care*
22 *facility fails to comply with an order to take corrective action*
23 *within the time specified or, if no time has been specified, in a*
24 *timely manner, the Health Division may take such action as it*
25 *deems appropriate, including, without limitation:*

26 *(a) Appointing an administrative overseer for the health care*
27 *facility;*

28 *(b) Closing the health care facility or unit to the admission of*
29 *patients;*

30 *(c) Placing the emergency room of the health care facility on*
31 *bypass status; and*

32 *(d) Suspending or revoking the license of the health care*
33 *facility.*

34 **Sec. 21.** *Any person who willfully violates any provision of*
35 *NRS 449.241 to 449.2418, inclusive, and sections 2 to 24,*
36 *inclusive, of this act in a manner that evidences a pattern or*
37 *practice of violations which is likely to have a serious and adverse*
38 *impact on patient care or the potential for serious injury or death*
39 *to patients or employees of the health care facility is guilty of a*
40 *misdemeanor.*

41 **Sec. 22.** *A person or health care facility that fails to report or*
42 *falsifies information, or that coerces, threatens, intimidates or*
43 *otherwise influences another person to fail to report or to falsify*
44 *information, required to be reported pursuant to NRS 449.241 to*
45 *449.2418, inclusive, and sections 2 to 24, inclusive, of this act, is*



1 *guilty of a gross misdemeanor and shall be punished by a fine of*
2 *not more than \$15,000 for each such incident.*

3 **Sec. 23. *The Department of Health and Human Services:***

4 *1. May, upon a determination that a health care facility has*
5 *violated any provision of NRS 449.241 to 449.2418, inclusive, and*
6 *sections 2 to 24, inclusive, of this act:*

7 *(a) Order the health care facility to reimburse the State Plan*
8 *for Medicaid for an amount to be determined by the Department;*

9 *(b) Terminate the participation of the health care facility in the*
10 *State Plan for Medicaid for a period to be determined by the*
11 *Department; or*

12 *(c) Order the health care facility to reimburse the State Plan*
13 *for Medicaid and terminate the participation of the health care*
14 *facility in the State Plan for Medicaid.*

15 *2. Shall, if a health care facility falsifies or causes to be*
16 *falsified documentation required by NRS 449.241 to 449.2418,*
17 *inclusive, and sections 2 to 24, inclusive, of this act, prohibit the*
18 *health care facility from receiving any reimbursements from the*
19 *State Plan for Medicaid for 6 months.*

20 **Sec. 24. *The provisions of NRS 449.241 to 449.2418,***
21 ***inclusive, and sections 2 to 24, inclusive, of this act do not apply to***
22 ***a health care facility in a county whose population is less than***
23 ***100,000.***

24 **Sec. 25. NRS 449.0301 is hereby amended to read as follows:**

25 449.0301 The provisions of NRS 449.030 to 449.240,
26 inclusive, ***and 449.241 to 449.2418, inclusive, and sections 2 to 24,***
27 ***inclusive, of this act*** do not apply to:

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

35 2. Foster homes as defined in NRS 424.014.

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

39 **Sec. 26. NRS 449.040 is hereby amended to read as follows:**

40 449.040 Any person, state or local government or agency
41 thereof desiring a license under the provisions of NRS 449.030 to
42 449.240, inclusive, ***and 449.241 to 449.2418, inclusive, and***
43 ***sections 2 to 24, inclusive, of this act*** must file with the Health
44 Division an application on a form prescribed, prepared and
45 furnished by the Health Division, containing:



1 1. The name of the applicant and, if a natural person, whether
2 the applicant has attained the age of 21 years.

3 2. The type of facility to be operated.

4 3. The location of the facility.

5 4. In specific terms, the nature of services and type of care to
6 be offered, as defined in the regulations.

7 5. The number of beds authorized by the Director of the
8 Department of Health and Human Services or, if such authorization
9 is not required, the number of beds the facility will contain.

10 6. The name of the person in charge of the facility.

11 7. Such other information as may be required by the Health
12 Division for the proper administration and enforcement of NRS
13 449.030 to 449.240, inclusive **H**, and *449.241 to 449.2418,*
14 *inclusive, and sections 2 to 24, inclusive, of this act.*

15 8. Evidence satisfactory to the Health Division that the
16 applicant is of reputable and responsible character. If the applicant is
17 a firm, association, organization, partnership, business trust,
18 corporation or company, similar evidence must be submitted as to
19 the members thereof **H** and the person in charge of the facility for
20 which application is made. If the applicant is a political subdivision
21 of the State or other governmental agency, similar evidence must be
22 submitted as to the person in charge of the institution for which
23 application is made.

24 9. Evidence satisfactory to the Health Division of the ability of
25 the applicant to comply with the provisions of NRS 449.030 to
26 449.240, inclusive, and *449.241 to 449.2418, inclusive, and*
27 *sections 2 to 24, inclusive, of this act* and the standards and
28 regulations adopted by the Board.

29 10. Evidence satisfactory to the Health Division that the
30 facility conforms to the zoning regulations of the local government
31 within which the facility will be operated or that the applicant has
32 applied for an appropriate reclassification, variance, permit for
33 special use or other exception for the facility.

34 11. If the facility to be licensed is a residential establishment as
35 defined in NRS 278.02384, and if the residential establishment is
36 subject to the distance requirements set forth in subsection 3 of NRS
37 278.02386, evidence satisfactory to the Health Division that the
38 residential establishment will be located and operated in accordance
39 with the provisions of that subsection.

40 **Sec. 27.** NRS 449.089 is hereby amended to read as follows:

41 449.089 1. Each license issued pursuant to NRS 449.030 to
42 449.240, inclusive, and *449.241 to 449.2418, inclusive, and*
43 *sections 2 to 24, inclusive, of this act* expires on December 31
44 following its issuance and is renewable for 1 year upon
45 reapplication and payment of all fees required pursuant to



1 NRS 449.050 unless the Health Division finds, after an
2 investigation, that the facility has not:

3 (a) Satisfactorily complied with the provisions of NRS 449.030
4 to 449.240, inclusive, *and 449.241 to 449.2418, inclusive, and*
5 *sections 2 to 24, inclusive, of this act* or the standards and
6 regulations adopted by the Board;

7 (b) Obtained the approval of the Director of the Department of
8 Health and Human Services before undertaking a project, if such
9 approval is required by NRS 439A.100; or

10 (c) Conformed to all applicable local zoning regulations.

11 2. Each reapplication for an agency to provide personal care
12 services in the home, an agency to provide nursing in the home, a
13 facility for intermediate care, a facility for skilled nursing, a
14 residential facility for groups or a home for individual residential
15 care must include, without limitation, a statement that the facility,
16 agency or home is in compliance with the provisions of NRS
17 449.121 to 449.125, inclusive, and 449.174.

18 3. Each reapplication for an agency to provide personal care
19 services in the home, a facility for intermediate care, a facility for
20 skilled nursing, a facility for the care of adults during the day, a
21 residential facility for groups or a home for individual residential
22 care must include, without limitation, a statement that the holder of
23 the license to operate, and the administrator or other person in
24 charge and employees of, the facility, agency or home are in
25 compliance with the provisions of NRS 449.093.

26 **Sec. 28.** NRS 449.160 is hereby amended to read as follows:

27 449.160 1. The Health Division may deny an application for
28 a license or may suspend or revoke any license issued under the
29 provisions of NRS 449.030 to 449.240, inclusive, *and 449.241 to*
30 *449.2418, inclusive, and sections 2 to 24, inclusive, of this act* upon
31 any of the following grounds:

32 (a) Violation by the applicant or the licensee of any of the
33 provisions of NRS 439B.410 or 449.030 to 449.245, inclusive, *and*
34 *sections 2 to 24, inclusive, of this act* or of any other law of this
35 State or of the standards, rules and regulations adopted thereunder.

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

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

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

43 (e) Failure of the applicant to obtain written approval from the
44 Director of the Department of Health and Human Services as



1 required by NRS 439A.100 or as provided in any regulation adopted
2 pursuant to this chapter, if such approval is required.

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

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

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

10 (b) Is ordered to but fails to abate a nuisance pursuant to NRS
11 244.360, 244.3603 or 268.4124; or

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

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

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

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

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

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

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

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

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

36 **Sec. 29.** NRS 449.163 is hereby amended to read as follows:

37 449.163 1. In addition to the payment of the amount required
38 by NRS 449.0308, if a medical facility or facility for the dependent
39 violates any provision related to its licensure, including any
40 provision of NRS 439B.410 or 449.030 to 449.240, inclusive, *and*
41 *449.241 to 449.2418, inclusive, and sections 2 to 24, inclusive, of*
42 *this act* or any condition, standard or regulation adopted by the
43 Board, the Health Division, in accordance with the regulations
44 adopted pursuant to NRS 449.165, may:



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

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

6 (c) If the license of the facility limits the occupancy of the
7 facility and the facility has exceeded the approved occupancy,
8 require the facility, at its own expense, to move patients to another
9 facility that is licensed;

10 (d) ~~Impose~~ *Except as otherwise provided in section 19 of this*
11 *act, impose* an administrative penalty of not more than \$1,000 per
12 day for each violation, together with interest thereon at a rate not to
13 exceed 10 percent per annum; and

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

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

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

22 2. ~~Impose~~ *Except as otherwise provided in section 19 of this act, if*
23 a violation by a medical facility or facility for the dependent relates
24 to the health or safety of a patient, an administrative penalty
25 imposed pursuant to paragraph (d) of subsection 1 must be in a total
26 amount of not less than \$1,000 and not more than \$10,000 for each
27 patient who was harmed or at risk of harm as a result of the
28 violation.

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

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

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

35 4. The Health Division may require any facility that violates
36 any provision of NRS 439B.410 or 449.030 to 449.240, inclusive,
37 *and 449.241 to 449.2418, inclusive, and sections 2 to 24, inclusive,*
38 *of this act* or any condition, standard or regulation adopted by the
39 Board to make any improvements necessary to correct the violation.

40 5. Any money collected as administrative penalties pursuant to
41 paragraph (d) of subsection 1 must be accounted for separately and
42 used to administer and carry out the provisions of this chapter and to
43 protect the health, safety, well-being and property of the patients
44 and residents of facilities in accordance with applicable state and
45 federal standards.



1 **Sec. 30.** NRS 449.241 is hereby amended to read as follows:
2 449.241 As used in NRS 449.241 to ~~449.2421,~~ **449.2418,**
3 inclusive, **and sections 2 to 24, inclusive, of this act** unless the
4 context otherwise requires, the words and terms defined in NRS
5 449.2414, 449.2416 and 449.2418 **and sections 2 to 7, inclusive, of**
6 **this act** have the meanings ascribed to them in those sections.

7 **Sec. 31.** NRS 449.2414 is hereby amended to read as follows:
8 449.2414 "Health care facility" means:

- 9 1. A hospital;
- 10 2. An independent center for emergency medical care;
- 11 3. A psychiatric hospital; ~~and~~
- 12 4. **A rural hospital; and**
- 13 5. A surgical center for ambulatory patients.

14 **Sec. 32.** NRS 449.242 and 449.2421 are hereby repealed.

15 **Sec. 33.** The Health Division of the Department of Health and
16 Human Services shall not renew the license of any health care
17 facility, as that term is defined in NRS 449.2414, as amended by
18 section 31 of this act, if the health care facility has not submitted to
19 the Health Division a documented staffing plan as required by
20 section 9 of this act.

21 **Sec. 34.** The provisions of NRS 354.599 do not apply to any
22 additional expenses of a local government that are related to the
23 provisions of this act.

TEXT OF REPEALED SECTIONS

449.242 Establishment of staffing committee by certain hospitals located in larger counties; membership; duty to develop documented staffing plan; quarterly meetings; reporting to Legislature.

1. Each hospital located in a county whose population is 100,000 or more and which is licensed to have more than 70 beds shall establish a staffing committee to develop a documented staffing plan as required pursuant to NRS 449.2421. The staffing committee must consist of:

(a) Not less than one-half of the total members from the licensed nursing staff who are providing direct patient care at the hospital; and

(b) Not less than one-half of the total members appointed by the administration of the hospital.

2. The staffing committee of a hospital shall meet at least quarterly.



3. Each hospital that is required to establish a staffing committee pursuant to this section shall prepare a written report concerning the establishment of the staffing committee, the activities and progress of the staffing committee and a determination of the efficacy of the staffing committee. The hospital shall submit the report on or before December 31 of each:

(a) Even-numbered year to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) Odd-numbered year to the Legislative Committee on Health Care.

449.2421 Certain health care facilities located in larger counties required to make available to Health Division documented staffing plan; requirements of plan and flexibility for adjustments.

1. As a condition of licensing, a health care facility located in a county whose population is 100,000 or more and which is licensed to have more than 70 beds shall make available to the Health Division a documented staffing plan and a written certification that the documented staffing plan is adequate to meet the needs of the patients of the health care facility. The documented staffing plan must include, without limitation:

(a) A detailed written plan setting forth the number, skill mix and classification of licensed nurses required in each unit in the health care facility, which must take into account the experience of the clinical and nonclinical support staff with whom the nurses collaborate, supervise or otherwise delegate assignments;

(b) A description of the types of patients who are treated in each unit, including, without limitation, the type of care required by the patients;

(c) A description of the activities in each unit, including, without limitation, discharges, transfers and admissions;

(d) A description of the size and geography of each unit;

(e) A description of any specialized equipment and technology available for each unit; and

(f) Any foreseeable changes in the size or function of each unit.

2. A documented staffing plan must provide sufficient flexibility to allow for adjustments based upon changes in a unit of the health care facility.

