

SENATE BILL NO. 362—SENATORS SPEARMAN  
AND SEGERBLOM

MARCH 18, 2013

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes concerning certain 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 (§15)  
(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 to establish policies pursuant to which a licensed nurse or certified nursing assistant may refuse a work assignment; requiring certain hospitals to include certified nursing assistants in the membership of the staffing committees of the hospitals; requiring certain health care facilities to include certain staffing requirements and protocols within the documented staffing plans of the health care facilities; requiring certain health care facilities to ensure that the health care facility is staffed in accordance with its documented staffing plan; providing administrative penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

- Existing law requires: (1) hospitals which are located in a county whose population is 100,000 or more (currently Clark and Washoe Counties) and which are licensed to have more than 70 beds to establish a staffing committee; and (2) health care facilities which are located in a county whose population is 100,000 or more and which are licensed to have more than 70 beds 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 30.6** of this bill requires those hospitals to include certified nursing assistants in the membership of the staffing committees. **Section 30.9** of this bill requires those health care facilities to include



in their documented staffing plans: (1) the number of certified nursing assistants in each unit of the health care facility; and (2) protocols for adequately staffing the health care facility in the event of an emergency. **Section 30.9** also requires that each such health care facility ensure that the facility is staffed in accordance with its documented staffing plan.

**Section 15** of this bill requires each health care facility described above to establish written policies pursuant to which a licensed nurse or certified nursing assistant may refuse a work assignment. **Section 17** of the bill requires the Health Division of the Department of Health and Human Services to ensure general compliance with the provisions of the law which govern the written policies and staffing requirements as well as to adopt regulations to carry out those provisions. **Sections 25-29** of this bill amend existing law to indicate that: (1) the Health Division may take certain actions to enforce the amendatory provisions of this bill; and (2) the amendatory provisions of this bill will be codified with and treated similarly to existing laws which govern the licensing and regulation of health care facilities.

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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 to 24, inclusive, of this act.

**Sec. 2.** (Deleted by amendment.)

**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.** (Deleted by amendment.)

**Sec. 5.** (Deleted by amendment.)

**Sec. 6.** (Deleted by amendment.)

**Sec. 7.** (Deleted by amendment.)

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

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

**Sec. 10.** (Deleted by amendment.)

**Sec. 11.** (Deleted by amendment.)

**Sec. 12.** (Deleted by amendment.)

**Sec. 13.** (Deleted by amendment.)

**Sec. 14.** (Deleted by amendment.)

**Sec. 15.** *1. As a condition of licensure, a health care facility which is located in a county whose population is 100,000 or more and which is licensed to have more than 70 beds must adopt and disseminate to each licensed nurse and certified nursing assistant employed by the health care facility a written policy that sets forth the circumstances under which a licensed nurse or certified nursing assistant may refuse a work assignment.*



2. *The written policy concerning work assignments must, at a minimum, allow a licensed nurse or certified nursing assistant to refuse an assignment:*

(a) *For which the licensed nurse or certified nursing assistant 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 licensed nurse or certified nursing assistant to meet foreseeable needs of the patients and the licensure of the licensed nurse or certification of the certified nursing assistant; or*

(b) *Which otherwise violates any provision of NRS 449.241 to 449.2421, 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 licensed nurse or certified nursing assistant of the request, including supporting reasons, by the licensed nurse or certified nursing assistant 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 licensed nurse or certified nursing assistant to be relieved of the work assignment, including any specific conditions supporting the request, and based upon that review:*

(1) *Relieve the licensed nurse or certified nursing assistant of the work assignment as requested; or*

(2) *Deny the request; and*

(c) *A process pursuant to which a licensed nurse or certified nursing assistant may exercise his or her right to refuse a work assignment if the supervisor denies the request to be relieved of the work assignment if:*

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

(2) *The process for filing a complaint with the Health Division or any other appropriate regulatory entity, including any investigation that would be required, would be untimely to address the concerns of the licensed nurse or certified nursing assistant in refusing a work assignment; and*

(3) *The licensed nurse or certified nursing assistant in good faith believes that the work assignment meets the conditions established in the written policy justifying refusal.*

Sec. 16. (Deleted by amendment.)

Sec. 17. *For each health care facility which is located in a county whose population is 100,000 or more and which is licensed to have more than 70 beds, the Health Division shall:*



1     **1. Ensure the general compliance of the health care facility**  
2 **with the provisions of NRS 449.241 to 449.2421, inclusive, and**  
3 **sections 2 to 24, inclusive, of this act, including, without**  
4 **limitation, those provisions relating to documented staffing plans;**  
5 **and**

6     **2. Adopt such regulations as are necessary or appropriate to**  
7 **carry out the provisions of this section.**

8     **Sec. 18.** (Deleted by amendment.)

9     **Sec. 19.** (Deleted by amendment.)

10    **Sec. 20.** (Deleted by amendment.)

11    **Sec. 21.** (Deleted by amendment.)

12    **Sec. 22.** (Deleted by amendment.)

13    **Sec. 23.** (Deleted by amendment.)

14    **Sec. 24.** (Deleted by amendment.)

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

16    449.0301 The provisions of NRS 449.030 to 449.240,  
17 inclusive, **and 449.241 to 449.2421, inclusive, and sections 2 to 24,**  
18 **inclusive, of this act** do not apply to:

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

26    2. Foster homes as defined in NRS 424.014.

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

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

31    449.040 Any person, state or local government or agency  
32 thereof desiring a license under the provisions of NRS 449.030 to  
33 449.240, inclusive, **and 449.241 to 449.2421, inclusive, and**  
34 **sections 2 to 24, inclusive, of this act** must file with the Health  
35 Division an application on a form prescribed, prepared and  
36 furnished by the Health Division, containing:

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

39    2. The type of facility to be operated.

40    3. The location of the facility.

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

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



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

7. Such other information as may be required by the Health Division for the proper administration and enforcement of NRS 449.030 to 449.240, inclusive ~~§~~ , *and 449.241 to 449.2421, inclusive, and sections 2 to 24, inclusive, of this act.*

8. Evidence satisfactory to the Health Division that the applicant is of reputable and responsible character. If the applicant is a firm, association, organization, partnership, business trust, corporation or company, similar evidence must be submitted as to the members thereof ~~§~~ and the person in charge of the facility for which application is made. If the applicant is a political subdivision of the State or other governmental agency, similar evidence must be submitted as to the person in charge of the institution for which application is made.

9. Evidence satisfactory to the Health Division of the ability of the applicant to comply with the provisions of NRS 449.030 to 449.240, inclusive, *and 449.241 to 449.2421, inclusive, and sections 2 to 24, inclusive, of this act* and the standards and regulations adopted by the Board.

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

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

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

449.089 1. Each license issued pursuant to NRS 449.030 to 449.240, inclusive, *and 449.241 to 449.2421, inclusive, and sections 2 to 24, inclusive, of this act* expires on December 31 following its issuance and is renewable for 1 year upon reapplication and payment of all fees required pursuant to NRS 449.050 unless the Health Division finds, after an investigation, that the facility has not:

(a) Satisfactorily complied with the provisions of NRS 449.030 to 449.240, inclusive, *and 449.241 to 449.2421, inclusive, and sections 2 to 24, inclusive, of this act* or the standards and regulations adopted by the Board;

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



(c) Conformed to all applicable local zoning regulations.

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

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

**Sec. 28.** 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 449.030 to 449.240, inclusive, *and 449.241 to 449.2421, inclusive, and sections 2 to 24, inclusive, 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 449.030 to 449.245, inclusive, *and sections 2 to 24, inclusive, 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;



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

449.163 1. In addition to the payment of the amount required by NRS 449.0308, if a medical facility or facility for the dependent violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.030 to 449.240, inclusive, *and 449.241 to 449.2421, inclusive, and sections 2 to 24, inclusive, 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) If the license of the facility limits the occupancy of the facility and the facility has exceeded the approved occupancy, require the facility, at its own expense, to move patients to another facility that is licensed;



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(d) 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

(e) 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 (d) 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 (d) 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 449.030 to 449.240, inclusive, *and 449.241 to 449.2421, inclusive, and sections 2 to 24, inclusive, 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 paragraph (d) of subsection 1 must be accounted for separately and used to administer and carry out the provisions of this chapter and to protect the health, safety, well-being and property of the patients and residents of facilities in accordance with applicable state and federal standards.

**Sec. 30.** NRS 449.241 is hereby amended to read as follows:

449.241 As used in NRS 449.241 to 449.2421, inclusive, *and sections 2 to 24, inclusive, of this act* unless the context otherwise requires, the words and terms defined in NRS 449.2414, 449.2416 and 449.2418 *and sections 2 to 7, inclusive, of this act* have the meanings ascribed to them in those sections.

**Sec. 30.3.** NRS 449.2416 is hereby amended to read as follows:

449.2416 ~~["Nurse"]~~ *"Licensed nurse"* means a person licensed pursuant to chapter 632 of NRS to practice nursing, including,



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1 without limitation, a licensed practical nurse. The term does not  
2 include a certified nursing assistant or a medication aide - certified.

3 **Sec. 30.6.** NRS 449.242 is hereby amended to read as follows:

4 449.242 1. Each hospital located in a county whose  
5 population is 100,000 or more and which is licensed to have more  
6 than 70 beds shall establish a staffing committee to develop a  
7 documented staffing plan as required pursuant to NRS 449.2421.  
8 The staffing committee must consist of:

9 (a) Not less than one-half of the total members *of the staffing*  
10 *committee* from the licensed nursing staff *and certified nursing*  
11 *assistants* who are providing direct patient care at the hospital; and

12 (b) Not less than one-half of the total members *of the staffing*  
13 *committee* appointed by the administration of the hospital.

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

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

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

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

27 **Sec. 30.9.** NRS 449.2421 is hereby amended to read as  
28 follows:

29 449.2421 1. As a condition of licensing, a health care facility  
30 located in a county whose population is 100,000 or more and which  
31 is licensed to have more than 70 beds shall make available to the  
32 Health Division a documented staffing plan and a written  
33 certification that the documented staffing plan is adequate to meet  
34 the needs of the patients of the health care facility. The documented  
35 staffing plan must include, without limitation:

36 (a) A detailed written plan setting forth ~~that~~ :

37 (1) *The* number, skill mix and classification of licensed  
38 nurses required in each unit in the health care facility, which must  
39 take into account the experience of the clinical and nonclinical  
40 support staff with whom the *licensed* nurses collaborate, supervise  
41 or otherwise delegate assignments; *and*

42 (2) *The number of certified nursing assistants required in*  
43 *each unit in the health care facility;*



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(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 ~~+~~; and

*(g) Protocols for adequately staffing the health care facility in the event of an emergency.*

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

*3. The health care facility shall ensure that it is staffed in accordance with the documented staffing plan.*

**Sec. 31.** (Deleted by amendment.)

**Sec. 32.** (Deleted by amendment.)

**Sec. 33.** The Health Division of the Department of Health and Human Services shall not renew the license of any health care facility, as that term is defined in NRS 449.2414, if the health care facility has not submitted to the Health Division a documented staffing plan as required by NRS 449.2421, as amended by section 30.9 of this act.

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

