

SENATE BILL NO. 501—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE DEPARTMENT OF ADMINISTRATION)

MARCH 25, 2013

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing funding for certain facilities for the treatment of abuse of alcohol or drugs. (BDR 40-1141)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Executive Budget.

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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 substance abuse; revising provisions governing funding for certain facilities for the treatment of abuse of alcohol or drugs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, a facility for the treatment of abuse of alcohol or drugs, to
2 be eligible to receive state and federal money for its alcohol and drug abuse
3 programs, must be licensed by the State Board of Health and certified by the
4 Division of Mental Health and Developmental Services of the Department of
5 Health and Human Services. (NRS 449.0302, 458.025) **Sections 1 and 2** of this bill
6 provide that a facility is eligible to receive such money if the facility is licensed by
7 the Health Division of the Department.

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

1 **Section 1.** Chapter 449 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *A facility for the treatment of abuse of alcohol or drugs is not*
4 *eligible to receive state and federal money for alcohol and drug*
5 *abuse programs unless it is licensed by the Health Division*
6 *pursuant to NRS 449.080.*



1 **Sec. 2.** NRS 449.00455 is hereby amended to read as follows:

2 449.00455 “Facility for the treatment of abuse of alcohol or
3 drugs” means any public or private establishment which provides
4 residential treatment, including mental and physical restoration, of
5 abusers of alcohol or drugs . ~~{and which is certified by the Division~~
6 ~~of Mental Health and Developmental Services of the Department of~~
7 ~~Health and Human Services pursuant to subsection 4 of NRS~~
8 ~~458.025. It~~ **The term** does not include a medical facility or services
9 offered by volunteers or voluntary organizations.

10 **Sec. 3.** NRS 449.0301 is hereby amended to read as follows:

11 449.0301 The provisions of NRS 449.030 to 449.240,
12 inclusive, **and section 1 of this act** do not apply to:

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

20 2. Foster homes as defined in NRS 424.014.

21 3. Any medical facility or facility for the dependent operated
22 and maintained by the United States Government or an agency
23 thereof.

24 **Sec. 4.** NRS 449.160 is hereby amended to read as follows:

25 449.160 1. The Health Division may deny an application for
26 a license or may suspend or revoke any license issued under the
27 provisions of NRS 449.030 to 449.240, inclusive, **and section 1 of**
28 **this act** upon any of the following grounds:

29 (a) Violation by the applicant or the licensee of any of the
30 provisions of NRS 439B.410 or 449.030 to 449.245, inclusive, **and**
31 **section 1 of this act**, or of any other law of this State or of the
32 standards, rules and regulations adopted thereunder.

33 (b) Aiding, abetting or permitting the commission of any illegal
34 act.

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

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

40 (e) Failure of the applicant to obtain written approval from the
41 Director of the Department of Health and Human Services as
42 required by NRS 439A.100 or as provided in any regulation adopted
43 pursuant to this chapter, if such approval is required.

44 (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. 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 section 1 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;

(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 section 1 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. 6. NRS 449.220 is hereby amended to read as follows:

449.220 1. The Health Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.030 to 449.240, inclusive *†, and section 1 of this act*:

(a) Without first obtaining a license therefor; or



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

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

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

449.240 The district attorney of the county in which the facility is located shall, upon application by the Health Division, institute and conduct the prosecution of any action for violation of any provisions of NRS 449.030 to 449.245, inclusive ~~†~~, and *section 1 of this act.*

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. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 16.5. (Deleted by amendment.)

Sec. 17. NRS 484C.100 is hereby amended to read as follows:

484C.100 "Treatment facility" means a facility for the treatment of abuse of alcohol or drugs ~~†, which is certified by the Health Division of the Department of Health and Human Services.†~~, as defined in *NRS 449.00455, which is licensed pursuant to NRS 449.080.*

Sec. 18. (Deleted by amendment.)

Sec. 18.5. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and an opportunity for 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.



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(d) Aids or abets any person in the violation of any of the provisions of NRS 449.030 to 449.240, inclusive, *and section 1 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. If a licensee requests a hearing pursuant to subsection 1, the Board shall give the licensee 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.

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. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 23.3. (Deleted by amendment.)

Sec. 23.7. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

