

ASSEMBLY BILL NO. 222—ASSEMBLYMAN KIRNER (BY REQUEST)

MARCH 4, 2015

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing the imposition of administrative sanctions against facilities for the dependent. (BDR 40-645)

FISCAL NOTE: Effect on Local Government: No.
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 facilities for the dependent; authorizing the Division of Public and Behavioral Health of the Department of Health and Human Services to impose certain administrative sanctions against a person who operates a facility for the dependent without a license; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines the term “facility for the dependent” to mean: (1) a facility for the treatment of abuse of alcohol or drugs; (2) a halfway house for recovering alcohol and drug abusers; (3) a facility for the care of adults during the day; (4) a residential facility for groups; (5) an agency to provide personal care services in the home; (6) a facility for transitional living for released offenders; and (7) a home for individual residential care. (NRS 449.0045) Existing law authorizes the Division of Public and Behavioral Health of the Department of Health and Human Services to charge and collect from a facility for the dependent or a person who operates such a facility without a license the costs of enforcing provisions governing facilities for the dependent against the facility. (NRS 449.0308) Existing law also provides that it is a misdemeanor to operate a facility for the dependent without a license. (NRS 449.030) Finally, existing law authorizes the Division to impose certain administrative sanctions against a person who operates a residential facility for groups or a home for individual residential care, but not other facilities for the dependent, without a license. Such sanctions include: (1) imposing civil penalties; (2) ordering the operator to move all persons receiving services in the residential facility for groups or home for individual residential care to a licensed facility; and (3) prohibiting the operator from applying for a license to operate a residential facility for groups or a home for individual residential care, as applicable. (NRS 449.210) This bill allows the Division to impose such administrative sanctions against a person who operates any facility for the dependent without a license.



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

Section 1. NRS 449.210 is hereby amended to read as follows:

449.210 1. In addition to the payment of the amount required by NRS 449.0308, except as otherwise provided in subsection 2 and NRS 449.24897, a person who operates a medical facility or facility for the dependent without a license issued by the Division is guilty of a misdemeanor.

2. In addition to the payment of the amount required by NRS 449.0308, if a person operates a ~~residential facility for groups or a home for individual residential care~~ *facility for the dependent* without a license issued by the Division, the Division shall:

(a) Impose a civil penalty on the operator in the following amount:

(1) For a first offense, \$10,000.

(2) For a second offense, \$25,000.

(3) For a third or subsequent offense, \$50,000.

(b) Order the operator, at the operator's own expense, to move all of the persons who are receiving services in the ~~residential facility for groups or home for individual residential care~~ *facility for the dependent* to a ~~residential facility for groups or home for individual residential care, as applicable,~~ *facility for the dependent of the same type* that is licensed.

(c) Prohibit the operator from applying for a license to operate ~~a residential facility for groups or home for individual residential care, as applicable,~~ *the type of facility for the dependent that the operator was found to be operating without a license.* The duration of the period of prohibition must be:

(1) For 6 months if the operator is punished pursuant to subparagraph (1) of paragraph (a).

(2) For 1 year if the operator is punished pursuant to subparagraph (2) of paragraph (a).

(3) Permanent if the operator is punished pursuant to subparagraph (3) of paragraph (a).

3. Before the Division imposes an administrative sanction pursuant to subsection 2, the Division shall provide the operator of a ~~residential facility for groups~~ *facility for the dependent* with reasonable notice. The notice must contain the legal authority, jurisdiction and reasons for the action to be taken. If the operator of a ~~residential facility for groups~~ *facility for the dependent* wants to contest the action, the operator may file an appeal pursuant to the regulations of the State Board of Health adopted pursuant to NRS 449.165 and 449.170. Upon receiving notice of an appeal, the Division shall hold a hearing in accordance with those regulations.



1 For the purpose of this subsection, it is no defense to the violation of
2 operating a ~~residential facility for groups~~ *facility for the*
3 *dependent* without a license that the operator thereof subsequently
4 licensed the facility in accordance with law.

5 4. Unless otherwise required by federal law, the Division shall
6 deposit all civil penalties collected pursuant to paragraph (a) of
7 subsection 2 into a separate account in the State General Fund to be
8 used to administer and carry out the provisions of NRS 449.001 to
9 449.430, inclusive, and 449.935 to 449.965, inclusive, and to protect
10 the health, safety, well-being and property of the patients and
11 residents of facilities and homes for individual residential care in
12 accordance with applicable state and federal standards.

13 **Sec. 2.** This act becomes effective:

14 1. Upon passage and approval for the purpose of adopting
15 regulations and performing any other preparatory administrative
16 tasks necessary to carry out the provisions of this act; and

17 2. On January 1, 2016, for all other purposes.

