

ASSEMBLY BILL NO. 242—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON SENIOR
CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS)

MARCH 9, 2015

Referred to Committee on Health and Human Services

SUMMARY—Prescribes requirements concerning the care of
patients in facilities for skilled nursing.
(BDR 40-417)

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

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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 public health; establishing certain requirements
concerning the care of patients in a facility for skilled
nursing; and providing other matters properly relating
thereto.

Legislative Counsel's Digest:

1 Existing law establishes certain requirements that apply to facilities for skilled
2 nursing and provides for the regulation of such facilities by the State Board of
3 Health and the Division of Public and Behavioral Health of the Department of
4 Health and Human Services. (NRS 449.030-449.2428) This bill requires a facility
5 for skilled nursing to provide to each patient a certain amount of direct care that is
6 provided by a registered nurse or a certified nursing assistant. Additionally, this bill
7 requires a facility for skilled nursing to respond to each request for assistance by a
8 patient within 20 minutes after the request is made. Finally, this bill authorizes the
9 Board to establish a monitoring system to ensure that facilities for skilled nursing
10 comply with these requirements. The Division is authorized to enforce these
11 requirements.



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 1. *A facility for skilled nursing shall ensure that each patient*
4 *in the facility receives not less than 4 hours and 6 minutes per day*
5 *of direct care from a certified nursing assistant or a registered*
6 *nurse, except that at least 1 hour and 18 minutes of which must be*
7 *provided by a registered nurse.*

8 2. *A facility for skilled nursing shall ensure that an*
9 *appropriate employee responds to each request for assistance*
10 *made by a patient within 20 minutes after the request is made.*

11 3. *The Board shall establish a monitoring system to ensure*
12 *that facilities for skilled nursing comply with the provisions of this*
13 *section, which must include, without limitation, procedures by*
14 *which any person may report a violation of subsection 2.*

15 4. *The Board may adopt any regulations that are necessary or*
16 *appropriate to carry out the provisions of this section.*

17 5. *As used in this section, "Certified nursing assistant"*
18 *means a person who has been certified by the State Board of*
19 *Nursing pursuant to NRS 632.2852 to practice as a nursing*
20 *assistant in this State.*

21 **Sec. 2.** NRS 449.0301 is hereby amended to read as follows:

22 449.0301 The provisions of NRS 449.030 to 449.2428,
23 inclusive, *and section 1 of this act* do not apply to:

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

31 2. Foster homes as defined in NRS 424.014.

32 3. Any medical facility or facility for the dependent operated
33 and maintained by the United States Government or an agency
34 thereof.

35 **Sec. 3.** NRS 449.0305 is hereby amended to read as follows:

36 449.0305 1. Except as otherwise provided in subsection 5, a
37 person must obtain a license from the Board to operate a business
38 that provides referrals to residential facilities for groups.

39 2. The Board shall adopt:

40 (a) Standards for the licensing of businesses that provide
41 referrals to residential facilities for groups;

42 (b) Standards relating to the fees charged by such businesses;



(c) Regulations governing the licensing of such businesses; and
(d) Regulations establishing requirements for training the employees of such businesses.

3. A licensed nurse, social worker, physician or hospital, or a provider of geriatric care who is licensed as a nurse or social worker, may provide referrals to residential facilities for groups through a business that is licensed pursuant to this section. The Board may, by regulation, authorize a public guardian or any other person it determines appropriate to provide referrals to residential facilities for groups through a business that is licensed pursuant to this section.

4. A business that is licensed pursuant to this section or an employee of such a business shall not:

(a) Refer a person to a residential facility for groups that is not licensed.

(b) Refer a person to a residential facility for groups if the business or its employee knows or reasonably should know that the facility, or the services provided by the facility, are not appropriate for the condition of the person being referred.

(c) Refer a person to a residential facility for groups that is owned by the same person who owns the business.

➤ A person who violates the provisions of this subsection is liable for a civil penalty to be recovered by the Attorney General in the name of the Board for the first offense of not more than \$10,000 and for a second or subsequent offense of not less than \$10,000 nor more than \$20,000. Unless otherwise required by federal law, the Board shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used to administer and carry out the provisions of NRS 449.001 to 449.430, inclusive, *and section 1 of this act* and 449.435 to 449.965, inclusive, 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.

5. This section does not apply to a medical facility that is licensed pursuant to NRS 449.030 to 449.2428, inclusive, *and section 1 of this act* on October 1, 1999.

Sec. 4. NRS 449.0306 is hereby amended to read as follows:

449.0306 1. Money received from licensing medical facilities and facilities for the dependent must be forwarded to the State Treasurer for deposit in the State General Fund.

2. The Division shall enforce the provisions of NRS 449.030 to 449.245, inclusive, *and section 1 of this act* and may incur any necessary expenses not in excess of money appropriated for that purpose by the State or received from the Federal Government.



Sec. 5. NRS 449.131 is hereby amended to read as follows:

449.131 1. Any authorized member or employee of the Division may enter and inspect any building or premises at any time to secure compliance with or prevent a violation of any provision of NRS 449.030 to 449.245, inclusive, **and section 1 of this act.**

2. The State Fire Marshal or a designee of the State Fire Marshal shall, upon receiving a request from the Division or a written complaint concerning compliance with the plans and requirements to respond to an emergency adopted pursuant to subsection 9 of NRS 449.0302:

(a) Enter and inspect a residential facility for groups; and

(b) Make recommendations regarding the adoption of plans and requirements pursuant to subsection 9 of NRS 449.0302, to ensure the safety of the residents of the facility in an emergency.

3. The Chief Medical Officer or a designee of the Chief Medical Officer shall enter and inspect at least annually each building or the premises of a residential facility for groups to ensure compliance with standards for health and sanitation.

4. An authorized member or employee of the Division shall enter and inspect any building or premises operated by a residential facility for groups within 72 hours after the Division is notified that a residential facility for groups is operating without a license.

Sec. 6. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.030 to 449.2428, inclusive, **and section 1 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 section 1 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 NRS 449.001 to 449.430, inclusive, **and section 1 of this act** and 449.435 to 449.965, inclusive, 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 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 Division shall maintain a log of any complaints that it receives relating to activities for which the Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The 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 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 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 Division pursuant to subsection 3; and

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

Sec. 7. 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 449.2428, inclusive, *and section 1 of this act* or any condition, standard or regulation adopted by the Board, the 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 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 Division may require any facility that violates any provision of NRS 439B.410 or 449.030 to 449.2428, 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 NRS 449.001 to 449.430, inclusive, *and section 1 of this act* and 449.435 to 449.965, inclusive, 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. 8. 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 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 to a residential facility for groups or home for individual residential care, as applicable, 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 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 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 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. For the purpose of this subsection, it is no defense to the violation of operating a residential facility for groups without a license that the operator thereof subsequently licensed the facility in accordance with law.

4. Unless otherwise required by federal law, the Division shall deposit all civil penalties collected pursuant to paragraph (a) of subsection 2 into a separate account in the State General Fund to be used to administer and carry out the provisions of NRS 449.001 to 449.430, inclusive, *and section 1 of this act* and 449.935 to 449.965, inclusive, and to protect the health, safety, well-being and property of the patients and residents of facilities and homes for individual residential care in accordance with applicable state and federal standards.



Sec. 9. 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 Division, institute and conduct the prosecution of any action for violation of any provisions of NRS 449.030 to 449.245, inclusive ~~(H)~~, and *section 1 of this act*.

Sec. 10. 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.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.030 to 449.2428, 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.



1 5. The expiration of a license by operation of law or by order
2 or decision of the Board or a court, or the voluntary surrender of a
3 license, does not deprive the Board of jurisdiction to proceed with
4 any investigation of, or action or disciplinary proceeding against, the
5 licensee or to render a decision suspending or revoking the license.

6 **Sec. 11.** This act becomes effective:

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

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

