

ASSEMBLY BILL NO. 396—ASSEMBLYMEN MOORE AND FIORE

MARCH 17, 2015

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to mental health facilities and programs of community-based or outpatient services. (BDR 39-820)

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

CONTAINS UNFUNDED MANDATE (§§ 6, 7, 10, 13)
(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 mental health; requiring a mental health facility or program of community-based or outpatient services to obtain informed consent from certain persons before providing care, treatment or training; prescribing requirements relating to informed consent to care, treatment or training provided by such a facility or program; prescribing requirements relating to certain medical examinations of a person alleged to be a person with mental illness; requiring separate medical and psychiatric examinations to be conducted after the filing of a petition to commence proceedings for the involuntary court-ordered admission of a person alleged to be a person with mental illness to a mental health facility or a program of community-based or outpatient services; requiring counties to pay for the medical examination and treatment of certain such persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law provides each consumer admitted to a mental health facility for
- 2 evaluation, treatment or training with the right to provide informed consent before
- 3 instituting a plan of care, treatment or training or carrying out any necessary
- 4 surgical procedure. If the consumer is under 18 years of age and not legally
- 5 emancipated or has been adjudicated mentally incompetent, the parent or guardian,



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as applicable, of the consumer may provide such consent. (NRS 433.484) **Section 1** of this bill requires both a mental health facility and a provider of a program of community-based or outpatient services to obtain such consent before providing any care, treatment or training. Because **section 1** now provides this requirement, the provisions of **section 4** of this bill that provide similar requirements for a mental health facility are removed. **Section 1** also requires a facility or program to provide certain information to a person whose consent is sought and make an audiovisual recording of such information. The consent must be documented on a form signed by the mental health professional prescribing the care, treatment or training and the person providing consent.

Existing law requires a person who is alleged to be a person with mental illness to undergo a medical examination by a physician, physician assistant or advanced practice registered nurse before being admitted to a mental health facility on an emergency basis. If medical treatment is required, the person must be admitted to a medical facility. The county in which the person resides is required to pay for the examination and treatment of certain uninsured persons. (NRS 433A.165) **Section 6** of this bill: (1) requires the person or the person's parent or guardian to provide informed consent before such an examination can be conducted; (2) requires the examination to be performed by a physician who is not employed by or affiliated with a mental health facility and to include certain tests; and (3) authorizes a person who is examined to obtain a second examination conducted by a physician of his or her choice. **Section 10** of this bill requires the county in which a person for whom an application for the emergency admission of the person has been filed resides to pay for such a second examination if the person is uninsured and does not voluntarily pay. **Section 10** also requires that if a person who, as a result of such an examination, is determined to have a medical problem, the person must be taken to a hospital or medical facility that is, to the extent practicable, selected by the person. **Section 10** removes an exemption for the Division of Public and Behavioral Health of the Department of Health and Human Services from the requirement to examine a person if the Division does not have sufficient personnel or medical laboratories to perform the examination.

Existing law requires a person to undergo a psychiatric examination before being admitted to a mental health facility on an emergency basis. (NRS 433A.170) **Section 11** of this bill requires such an examination to be conducted after any necessary medical treatment is completed.

Existing law requires an examination of each person for whom an application for an involuntary court-ordered admission to a mental health facility or a program of community-based or outpatient services is ordered. Such an examination must be conducted by at least two mental health or medical professionals, at least one of whom must be a physician. (NRS 433A.240, 433A.250) **Sections 7 and 12** of this bill instead require two examinations to be conducted. **Section 7** requires the first such examination to be a medical examination that must meet the same requirements as the examination conducted before a person is admitted to a mental health facility on an emergency basis. If the physician who conducts the medical examination determines that medical treatment of the person is required, **section 7** requires the person to be admitted to a medical facility that, to the extent practicable, is chosen by the person or, if he or she is a minor or incompetent, his or her parent or guardian. **Section 12** requires the second examination to be a psychiatric examination conducted by at least two mental health or medical professionals, at least one of whom must be a physician.

Existing law requires the county in which an application for the involuntary-court ordered admission of a person has been filed or the person's last county of residence to pay for the proceedings for the involuntary court-ordered admission of the person. (NRS 433A.260) **Section 13** of this bill requires such a county to pay for the required medical examinations. **Section 13** also requires the county in which



61 the person alleged to be a person with mental illness resides to pay for any required
62 medical treatment if the person is indigent. **Sections 2, 3, 8, 9 and 14-18** of this bill
63 make conforming changes.

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

1 **Section 1.** Chapter 433 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *Except as otherwise provided in subsection 6, each facility*
4 *or provider of a program of community-based or outpatient*
5 *services shall obtain informed consent before providing care,*
6 *treatment or training to a consumer from:*

7 (a) *The consumer, if he or she is 18 years of age or older or*
8 *legally emancipated and competent to give consent, and from the*
9 *consumer's legal guardian, if any;*

10 (b) *The parent or guardian of such a consumer who is less*
11 *than 18 years of age and not legally emancipated; or*

12 (c) *The legal guardian of such a consumer of any age who has*
13 *been adjudicated mentally incompetent.*

14 2. *Informed consent obtained pursuant to subsection 1 must*
15 *include, without limitation:*

16 (a) *Adequately informing the person whose consent is sought*
17 *concerning:*

18 (1) *The nature and consequences of the care, treatment or*
19 *training;*

20 (2) *The reasonable risks, scientifically validated benefits*
21 *and purposes of the care, treatment or training; and*

22 (3) *Alternative care, treatment or training available and the*
23 *reasonable risks, scientifically validated benefits and purposes of*
24 *such care, treatment or training.*

25 (b) *Providing the person whose consent is sought with*
26 *citations to peer-reviewed scientific publications demonstrating*
27 *that the care, treatment or training is safe and effective.*

28 (c) *Obtaining the signature of the person whose consent is*
29 *sought and the person professionally qualified in the field of*
30 *psychiatric mental health who is prescribing the care, treatment or*
31 *training on a form agreeing to the care, treatment or training*
32 *before such care, treatment or training is provided.*

33 3. *Consent provided pursuant to subsection 2 may be*
34 *withdrawn by the person who provided it at any time with or*
35 *without cause by submitting a written request to withdraw the*
36 *consent.*



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1 4. *The information provided pursuant to paragraph (a) of*
2 *subsection 2 must be recorded and preserved through the use of a*
3 *videotape or other means of audiovisual recording technology.*

4 5. *The facility or provider of a program of community-based*
5 *or outpatient services, as applicable, shall make the signed form,*
6 *the audiovisual recording and any withdrawal of consent a part of*
7 *the medical record of the consumer.*

8 6. *Even in the absence of express and informed consent, a*
9 *licensed and qualified physician may render emergency medical*
10 *care or treatment to any consumer who has been injured in an*
11 *accident or who is suffering from an acute illness, disease or*
12 *condition if, within a reasonable degree of medical certainty, delay*
13 *in the initiation of emergency medical care or treatment would*
14 *endanger the health of the consumer and if the care or treatment*
15 *is immediately entered into the consumer's medical record, subject*
16 *to the provisions of subsection 7.*

17 7. *If the proposed emergency medical care or treatment is*
18 *deemed by the chief medical officer of a facility to be unusual,*
19 *experimental or generally occurring infrequently in routine*
20 *medical practice, the chief medical officer shall request*
21 *consultation from another physician or practitioner of healing arts*
22 *who has knowledge of the proposed care or treatment.*

23 8. *A facility shall prominently post the requirements of this*
24 *section in the facility and otherwise bring the requirements of this*
25 *section to the attention of the consumer by such additional means*
26 *as prescribed by regulation.*

27 9. *As used in this section, "program of community-based or*
28 *outpatient services" has the meaning ascribed to it in*
29 *NRS 433A.019.*

30 **Sec. 2.** NRS 433.456 is hereby amended to read as follows:

31 433.456 As used in NRS 433.456 to 433.536, inclusive, *and*
32 *section 1 of this act*, unless the context otherwise requires, the
33 words and terms defined in NRS 433.458, 433.461 and 433.462
34 have the meanings ascribed to them in those sections.

35 **Sec. 3.** NRS 433.462 is hereby amended to read as follows:

36 433.462 "Rights" includes, without limitation, all rights
37 provided to a consumer pursuant to NRS 433.456 to 433.536,
38 inclusive, *and section 1 of this act* and any regulations adopted
39 pursuant thereto.

40 **Sec. 4.** NRS 433.484 is hereby amended to read as follows:

41 433.484 Each consumer admitted for evaluation, treatment or
42 training to a facility has the following rights concerning care,
43 treatment and training, a list of which must be prominently posted in
44 all facilities providing those services and must be otherwise brought



1 to the attention of the consumer by such additional means as
2 prescribed by regulation:

3 1. To medical, psychosocial and rehabilitative care, treatment
4 and training including prompt and appropriate medical treatment
5 and care for physical and mental ailments and for the prevention of
6 any illness or disability. All of that care, treatment and training must
7 be consistent with standards of practice of the respective professions
8 in the community and is subject to the ~~following conditions:~~

9 ~~—(a) Before instituting a plan of care, treatment or training or~~
10 ~~carrying out any necessary surgical procedure, express and informed~~
11 ~~consent must be obtained in writing from:~~

12 ~~—(1) The consumer if he or she is 18 years of age or over or~~
13 ~~legally emancipated and competent to give that consent, and from~~
14 ~~the consumer's legal guardian, if any;~~

15 ~~—(2) The parent or guardian of a consumer under 18 years of~~
16 ~~age and not legally emancipated; or~~

17 ~~—(3) The legal guardian of a consumer of any age who has~~
18 ~~been adjudicated mentally incompetent;~~

19 ~~—(b) An informed consent requires that the person whose consent~~
20 ~~is sought be adequately informed as to:~~

21 ~~—(1) The nature and consequences of the procedure;~~

22 ~~—(2) The reasonable risks, benefits and purposes of the~~
23 ~~procedure; and~~

24 ~~—(3) Alternative procedures available;~~

25 ~~—(c) The consent of a consumer as provided in paragraph (b) may~~
26 ~~be withdrawn by the consumer in writing at any time with or~~
27 ~~without cause;~~

28 ~~—(d) Even in the absence of express and informed consent, a~~
29 ~~licensed and qualified physician may render emergency medical~~
30 ~~care or treatment to any consumer who has been injured in an~~
31 ~~accident or who is suffering from an acute illness, disease or~~
32 ~~condition, if within a reasonable degree of medical certainty, delay~~
33 ~~in the initiation of emergency medical care or treatment would~~
34 ~~endanger the health of the consumer and if the treatment is~~
35 ~~immediately entered into the consumer's record of treatment,~~
36 ~~subject to the provisions of paragraph (e); and~~

37 ~~—(e) If the proposed emergency medical care or treatment is~~
38 ~~deemed by the chief medical officer of the facility to be unusual,~~
39 ~~experimental or generally occurring infrequently in routine medical~~
40 ~~practice, the chief medical officer shall request consultation from~~
41 ~~other physicians or practitioners of healing arts who have~~
42 ~~knowledge of the proposed care or treatment.]~~ *requirements of*
43 *section 1 of this act.*

44 2. To be free from abuse, neglect and aversive intervention.



3. To consent to the consumer's transfer from one facility to another, except that the Administrator of the Division of Public and Behavioral Health of the Department or the Administrator's designee, or the Administrator of the Division of Child and Family Services of the Department or the Administrator's designee, may order a transfer to be made whenever conditions concerning care, treatment or training warrant it. If the consumer in any manner objects to the transfer, the person ordering it must enter the objection and a written justification of the transfer in the consumer's record of treatment and immediately forward a notice of the objection to the Administrator who ordered the transfer, and the Commission shall review the transfer pursuant to subsection 3 of NRS 433.534.

4. Other rights concerning care, treatment and training as may be specified by regulation of the Commission.

Sec. 5. Chapter 433A of NRS is hereby amended by adding thereto the provisions set forth as sections 6 and 7 of this act.

Sec. 6. 1. *Before a person is examined pursuant to NRS 433A.165 or section 7 of this act, the mental health facility or court, as applicable, must seek to obtain informed consent to conduct a medical examination of the person from:*

(a) The person, if he or she is 18 years of age or older or legally emancipated and competent to give consent, and the person's legal guardian, if any;

(b) The parent or guardian of the person, if the person is less than 18 years of age and not legally emancipated; or

(c) The legal guardian of the person, if the person has been adjudicated mentally incompetent.

2. *The person from whom informed consent is sought must be informed that an underlying medical problem may be causing the psychiatric problems of the person alleged to be a person with mental illness and that detecting such a medical condition through a medical examination may prevent unnecessary suffering by the person alleged to be a person with mental illness. Such a person must also be provided notice of the provisions of this section and NRS 433A.165, 433A.240 or 433A.260 and section 7 of this act, as applicable.*

3. *An examination conducted pursuant to NRS 433A.165 or section 7 of this act must:*

(a) Be conducted by a physician who is not a psychiatrist and is not employed by or affiliated with a mental health facility.

(b) Include, without limitation, and to the extent that the person or his or her parent or guardian, as applicable, consents:

(1) A complete blood count;

(2) A 23-item chemistry panel;



(3) *A serum fluorescent treponemal antibody-absorption test;*

(4) *Thyroid tests, including, without limitation, triiodothyronine resin uptake, a determination of total serum thyroxine and a free-thyroxine index;*

(5) *A determination of levels of serum folate and vitamin B12;*

(6) *A dipstick urinalysis;*

(7) *Allergy and hormone tests;*

(8) *A determination of whether another drug or medication, including, without limitation, a psychiatric drug or medication, is causing the psychiatric symptoms from which the person is suffering; and*

(9) *Any other laboratory test deemed appropriate by the physician who conducts the examination.*

4. *A physician who examines a person alleged to be a person with mental illness and each person who conducts a test pursuant to subsection 3 shall document the results of the examination or test in the medical record of the person and provide to the person a signed copy of the results of the examination or test.*

5. *A person who is examined pursuant to this section may request to have a second examination performed by a physician of his or her choice and to have the results of any test confirmed.*

Sec. 7. 1. *After the filing of a petition to commence proceedings for the involuntary court-ordered admission of a person pursuant to NRS 433A.200 or 433A.210, the court shall, if the person has not been examined pursuant to NRS 433A.165, seek informed consent to a medical examination and, if informed consent is obtained, have a medical examination conducted in the manner prescribed in section 6 of this act.*

2. *If the medical examination reveals that the person has a medical problem other than a psychiatric problem for which treatment is required, the court shall cause the person to be admitted for the appropriate medical care to a hospital or medical facility as required pursuant to NRS 433A.165.*

3. *If a person alleged to be a person with a mental illness has a medical problem in addition to a psychiatric problem which requires medical treatment, the licensed physician who examined the person must:*

(a) *On the first business day after determining that such medical treatment is necessary file with the clerk of the district court a written petition to commence proceedings for the involuntary court-ordered admission of the person pursuant to NRS 433A.200 or 433A.210 after the medical treatment has been completed. The petition must:*



1 (1) *Include, without limitation, the medical condition of the*
2 *person and the purpose for continuing the medical treatment of*
3 *the person; and*

4 (2) *Be accompanied by a copy of the original application*
5 *for the involuntary court-ordered admission of the person filed*
6 *pursuant to NRS 433A.200 or 433A.210.*

7 (b) *Seven days after filing a petition pursuant to paragraph (a)*
8 *and every 7 days thereafter, file with the clerk of the district court*
9 *an update on the medical condition and treatment of the person.*

10 4. *The examination and any transfer of the person from a*
11 *facility when the person has an emergency medical condition and*
12 *has not been stabilized must be conducted in compliance with:*

13 (a) *The requirements of 42 U.S.C. § 1395dd and any*
14 *regulations adopted pursuant thereto, and must involve a person*
15 *authorized pursuant to federal law to conduct such an*
16 *examination or certify such a transfer; and*

17 (b) *The provisions of NRS 439B.410.*

18 5. *As used in this section, “medical facility” has the meaning*
19 *ascribed to it in NRS 449.0151.*

20 **Sec. 8.** NRS 433A.115 is hereby amended to read as follows:

21 433A.115 1. As used in NRS 433A.115 to 433A.330,
22 inclusive, *and sections 6 and 7 of this act*, unless the context
23 otherwise requires, “person with mental illness” means any person
24 whose capacity to exercise self-control, judgment and discretion in
25 the conduct of the person’s affairs and social relations or to care for
26 his or her personal needs is diminished, as a result of a mental
27 illness, to the extent that the person presents a clear and present
28 danger of harm to himself or herself or others, but does not include
29 any person in whom that capacity is diminished by epilepsy,
30 intellectual disability, dementia, delirium, brief periods of
31 intoxication caused by alcohol or drugs, or dependence upon or
32 addiction to alcohol or drugs, unless a mental illness that can be
33 diagnosed is also present which contributes to the diminished
34 capacity of the person.

35 2. A person presents a clear and present danger of harm to
36 himself or herself if, within the immediately preceding 30 days, the
37 person has, as a result of a mental illness:

38 (a) Acted in a manner from which it may reasonably be inferred
39 that, without the care, supervision or continued assistance of others,
40 the person will be unable to satisfy his or her need for nourishment,
41 personal or medical care, shelter, self-protection or safety, and if
42 there exists a reasonable probability that the person’s death, serious
43 bodily injury or physical debilitation will occur within the next
44 following 30 days unless he or she is admitted to a mental health
45 facility pursuant to the provisions of NRS 433A.115 to 433A.330,



1 inclusive, *and sections 6 and 7 of this act* and adequate treatment is
2 provided to the person;

3 (b) Attempted or threatened to commit suicide or committed
4 acts in furtherance of a threat to commit suicide, and if there exists a
5 reasonable probability that the person will commit suicide unless he
6 or she is admitted to a mental health facility pursuant to the
7 provisions of NRS 433A.115 to 433A.330, inclusive, *and sections 6*
8 *and 7 of this act* and adequate treatment is provided to the person;
9 or

10 (c) Mutilated himself or herself, attempted or threatened to
11 mutilate himself or herself or committed acts in furtherance of a
12 threat to mutilate himself or herself, and if there exists a reasonable
13 probability that he or she will mutilate himself or herself unless the
14 person is admitted to a mental health facility pursuant to the
15 provisions of NRS 433A.115 to 433A.330, inclusive, *and sections 6*
16 *and 7 of this act* and adequate treatment is provided to the person.

17 3. A person presents a clear and present danger of harm to
18 others if, within the immediately preceding 30 days, the person has,
19 as a result of a mental illness, inflicted or attempted to inflict serious
20 bodily harm on any other person, or made threats to inflict harm and
21 committed acts in furtherance of those threats, and if there exists a
22 reasonable probability that he or she will do so again unless the
23 person is admitted to a mental health facility pursuant to the
24 provisions of NRS 433A.115 to 433A.330, inclusive, *and sections 6*
25 *and 7 of this act* and adequate treatment is provided to him or her.

26 **Sec. 9.** NRS 433A.150 is hereby amended to read as follows:

27 433A.150 1. Any person alleged to be a person with mental
28 illness may, upon application pursuant to NRS 433A.160 and
29 subject to the provisions of subsection 2, be detained in a public or
30 private mental health facility or hospital under an emergency
31 admission for evaluation, observation and treatment.

32 2. Except as otherwise provided in subsection 3, a person
33 detained pursuant to subsection 1 must be released within 72 hours,
34 including weekends and holidays, after the certificate required
35 pursuant to NRS 433A.170 and the examination required by
36 ~~paragraph (a) of~~ subsection 1 of NRS 433A.165 have been
37 completed, if such an examination is required, or within 72 hours,
38 including weekends and holidays, after the person arrives at the
39 mental health facility or hospital, if an examination is not required
40 by ~~paragraph (a) of~~ subsection 1 of NRS 433A.165, unless, before
41 the close of the business day on which the 72 hours expires, a
42 written petition for an involuntary court-ordered admission to a
43 mental health facility is filed with the clerk of the district court
44 pursuant to NRS 433A.200, including, without limitation, the



documents required pursuant to NRS 433A.210, or the status of the person is changed to a voluntary admission.

3. If the period specified in subsection 2 expires on a day on which the office of the clerk of the district court is not open, the written petition must be filed on or before the close of the business day next following the expiration of that period.

Sec. 10. NRS 433A.165 is hereby amended to read as follows:

433A.165 1. Before a person alleged to be a person with mental illness may be admitted to a public or private mental health facility pursuant to NRS 433A.160, the ~~person~~ *facility* must ~~be~~:

~~(a) First be examined by a licensed physician or physician assistant licensed pursuant to chapter 630 or 633 of NRS or an advanced practice registered nurse licensed pursuant to NRS 632.237 at any location where such a physician, physician assistant or advanced practice registered nurse is authorized to conduct such an examination to determine whether the person has a medical problem, other than a psychiatric problem, which requires immediate treatment; and~~

~~(b) seek to obtain informed consent to a medical examination and, if informed consent is obtained, have a medical examination conducted in the manner prescribed in section 6 of this act.~~

2. If ~~such~~ *the examination reveals that the person has a medical problem other than a psychiatric problem for which* treatment is required, *the person must* be admitted for the appropriate medical care:

~~(1)~~ *(a) To a hospital that, to the extent practicable, is chosen by the person who consented to the examination, if the person alleged to be a person with mental illness is in need of emergency services or care; or*

~~(2)~~ *(b) To a hospital or another appropriate medical facility selected by the person who consented to the examination if the person alleged to be a person with mental illness is not in need of emergency services or care.*

~~2~~ 3. If a person *alleged to be a person* with a mental illness has a medical problem in addition to a psychiatric problem which requires medical treatment that requires more than 72 hours to complete, the licensed physician ~~or physician assistant or advanced practice registered nurse~~ who examined the person must:

(a) On the first business day after determining that such medical treatment is necessary file with the clerk of the district court a written petition to admit the person to a public or private mental health facility pursuant to NRS 433A.160 after the medical treatment has been completed. The petition must:



(1) Include, without limitation, the medical condition of the person and the purpose for continuing the medical treatment of the person; and

(2) Be accompanied by a copy of the application for the emergency admission of the person required pursuant to NRS 433A.160. ~~and the certificate required pursuant to NRS 433A.170.~~

(b) Seven days after filing a petition pursuant to paragraph (a) and every 7 days thereafter, file with the clerk of the district court an update on the medical condition and treatment of the person.

~~13.1~~ 4. The examination and any transfer of the person from a facility when the person has an emergency medical condition and has not been stabilized must be conducted in compliance with:

(a) The requirements of 42 U.S.C. § 1395dd and any regulations adopted pursuant thereto, and must involve a person authorized pursuant to federal law to conduct such an examination or certify such a transfer; and

(b) The provisions of NRS 439B.410.

~~14.1~~ 5. The cost of the examination *and any second examination performed pursuant to subsection 5 of section 6 of this act* must be paid by the county in which the person alleged to be a person with mental illness resides if services are provided at a county hospital located in that county or a hospital or other medical facility designated by that county, unless the cost is voluntarily paid by the person alleged to be a person with mental illness or, on the person's behalf, by his or her insurer or by a state or federal program of medical assistance.

~~15.1~~ 6. The county may recover all or any part of the expenses paid by it, in a civil action against:

(a) The person whose expenses were paid;

(b) The estate of that person; or

(c) A responsible relative as prescribed in NRS 433A.610, to the extent that financial ability is found to exist.

~~16.1~~ 7. The cost of treatment, including hospitalization, for a person who is indigent must be paid pursuant to NRS 428.010 by the county in which the person alleged to be a person with mental illness resides.

~~17. The provisions of this section do not require the Division to provide examinations required pursuant to subsection 1 at a Division facility if the Division does not have the:~~

~~(a) Appropriate staffing levels of physicians, physician assistants, advanced practice registered nurses or other appropriate staff available at the facility as the Division determines is necessary to provide such examinations; or~~

~~(b) Appropriate medical laboratories as the Division determines is necessary to provide such examinations.~~



8. The Division shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations that:

(a) Define “emergency services or care” as that term is used in this section; and

(b) Prescribe the type of medical facility that a person may be admitted to pursuant to ~~subsection (2) of~~ paragraph (b) of subsection ~~1.1~~ 2.

9. As used in this section, “medical facility” has the meaning ascribed to it in NRS 449.0151.

Sec. 11. NRS 433A.170 is hereby amended to read as follows:

433A.170 1. Except as otherwise provided in this section, the administrative officer of a facility operated by the Division or of any other public or private mental health facility or hospital shall not accept an application for an emergency admission under NRS 433A.160 unless that application is accompanied by a certificate of a psychiatrist or a licensed psychologist stating that he or she has examined the person alleged to be a person with mental illness and that he or she has concluded that the person has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty. If a psychiatrist or licensed psychologist is not available to conduct an examination, a physician may conduct the examination. The certificate required by this section may be obtained from a psychiatrist, licensed psychologist or physician who is employed by the public or private mental health facility or hospital to which the application is made.

2. *If a person alleged to be a person with mental illness receives medical treatment pursuant to NRS 433A.165, the examination and certificate required pursuant to subsection 1 must be completed after the completion of such medical treatment.*

Sec. 12. NRS 433A.240 is hereby amended to read as follows:

433A.240 1. After the filing of a petition to commence proceedings for the involuntary court-ordered admission of a person pursuant to NRS 433A.200 or 433A.210 ~~1.1~~ *and after the completion of the examination and any treatment conducted pursuant to section 7 of this act*, the court shall promptly cause two or more physicians or licensed psychologists, one of whom must always be a physician, to ~~examine~~ *conduct a psychiatric examination of* the person alleged to be a person with mental illness, or request an evaluation by an evaluation team from the Division of the person alleged to be a person with mental illness.

2. To conduct the *psychiatric* examination of a person who is not being detained at a mental health facility or hospital under emergency admission pursuant to an application made pursuant to NRS 433A.160, the court may order a peace officer to take the



1 person into protective custody and transport the person to a mental
2 health facility or hospital where the person may be detained until a
3 hearing is had upon the petition.

4 3. If the person is not being detained under an emergency
5 admission pursuant to an application made pursuant to NRS
6 433A.160, the person may be allowed to remain in his or her home
7 or other place of residence pending an ordered *psychiatric*
8 examination or examinations and to return to his or her home or
9 other place of residence upon completion of the examination or
10 examinations. The person may be accompanied by one or more of
11 his or her relations or friends to the place of examination.

12 4. Each physician and licensed psychologist who ~~examines~~
13 *conducts a psychiatric examination of* a person pursuant to
14 subsection 1 shall, in conducting such an examination, consider the
15 least restrictive treatment appropriate for the person.

16 5. Except as otherwise provided in this subsection, each
17 physician and licensed psychologist who ~~examines~~ *conducts a*
18 *psychiatric examination of* a person pursuant to subsection 1 shall,
19 not later than 48 hours before the hearing set pursuant to NRS
20 433A.220, submit to the court in writing a summary of his or her
21 findings and evaluation regarding the person alleged to be a person
22 with mental illness. If the person alleged to be a person with mental
23 illness is admitted under an emergency admission pursuant to an
24 application made pursuant to NRS 433A.160, the written findings
25 and evaluation must be submitted to the court not later than 24 hours
26 before the hearing set pursuant to subsection 1 of NRS 433A.220.

27 **Sec. 13.** NRS 433A.260 is hereby amended to read as follows:

28 433A.260 1. In counties where the examining personnel
29 required pursuant to NRS 433A.240 *or sections 6 or 7 of this act*
30 are not available, proceedings for involuntary court-ordered
31 admission shall be conducted in the nearest county having such
32 examining personnel available in order that there be minimum
33 delay.

34 2. The entire expense of proceedings for involuntary court-
35 ordered admission, *including, without limitation, any examination*
36 *conducted pursuant to section 6 or 7 of this act*, shall be paid by
37 the county in which the application is filed, except that where the
38 person to be admitted last resided in another county of the state the
39 expense shall be charged to and payable by such county of
40 residence.

41 3. *The cost of treatment required pursuant to section 7 of this*
42 *act, including, without limitation, hospitalization, for a person*
43 *who is indigent must be paid pursuant to NRS 428.010 by the*
44 *county in which the person alleged to be a person with mental*
45 *illness resides.*



Sec. 14. NRS 433B.350 is hereby amended to read as follows:

433B.350 1. Nothing in this chapter purports to deprive any person of any legal rights without due process of law.

2. Unless the context clearly indicates otherwise, the provisions of NRS 433.456 to 433.543, inclusive, *and section 1 of this act*, *NRS* 433.545 to 433.551, inclusive, and chapter 433A of NRS apply to all persons subject to the provisions of this chapter.

Sec. 15. NRS 435.350 is hereby amended to read as follows:

435.350 1. Each person with an intellectual disability and each person with a related condition admitted to a division facility is entitled to all rights enumerated in NRS 433.482, 433.484, 433.545 to 433.551, inclusive, 435.565 and 435.570 *and section 1 of this act*.

2. The Administrator shall designate a person or persons to be responsible for establishment of regulations relating to denial of rights of persons with an intellectual disability and persons with related conditions. The person designated shall file the regulations with the Administrator.

3. Consumers' rights specified in NRS 433.482, 433.484, 435.565 and 435.570 *and section 1 of this act* may be denied only for cause. Any denial of such rights must be entered in the consumer's treatment record, and notice of the denial must be forwarded to the Administrator's designee or designees as provided in subsection 2. Failure to report denial of rights by an employee may be grounds for dismissal.

4. Upon receipt of notice of a denial of rights as provided in subsection 3, the Administrator's designee or designees shall cause a full report to be prepared which sets forth in detail the factual circumstances surrounding the denial. A copy of the report must be sent to the Administrator and the Commission on Behavioral Health.

5. The Commission on Behavioral Health has such powers and duties with respect to reports of denial of rights as are enumerated for the Commission on Behavioral Health in subsection 3 of NRS 435.610.

Sec. 16. NRS 432B.6078 is hereby amended to read as follows:

432B.6078 1. Not later than 5 days after a child who is in the custody of an agency which provides child welfare services has been admitted to a facility pursuant to NRS 432B.6076, the agency which provides child welfare services shall inform the child of his or her legal rights and the provisions of NRS 432B.607 to 432B.6085, inclusive, 433.456 to 433.543, inclusive, *and section 1 of this act* and *NRS* 433.545 to 433.551, inclusive, and chapters 433A and 433B of NRS and NRS 435.530 to 435.635, inclusive, and, if the child or the child's attorney desires, assist the child in requesting the



1 court to authorize a second examination by an evaluation team that
2 includes a physician, psychiatrist or licensed psychologist who are
3 not employed by, connected to or otherwise affiliated with the
4 facility other than a physician, psychiatrist or licensed psychologist
5 who performed an original examination which authorized the court
6 to order the admission of the child to the facility. A second
7 examination must be conducted not later than 5 business days after
8 the court authorizes the examination.

9 2. If the court authorizes a second examination of the child, the
10 examination must:

11 (a) Include, without limitation, an evaluation concerning
12 whether the child should remain in the facility and a
13 recommendation concerning the appropriate placement of the child
14 which must be provided to the facility; and

15 (b) Be paid for by the governmental entity that is responsible for
16 the agency which provides child welfare services, if such payment is
17 not otherwise provided by the State Plan for Medicaid.

18 **Sec. 17.** NRS 432B.6082 is hereby amended to read as
19 follows:

20 432B.6082 In addition to the personal rights set forth in NRS
21 432B.607 to 432B.6085, inclusive, 433.456 to 433.543, inclusive,
22 *and section 1 of this act* and *NRS* 433.545 to 433.551, inclusive,
23 and chapters 433A and 433B of NRS, and NRS 435.530 to 435.635,
24 inclusive, a child who is in the custody of an agency which provides
25 child welfare services and who is admitted to a facility has the
26 following personal rights, a list of which must be prominently
27 posted in all facilities providing evaluation, treatment or training
28 services to such children and must be otherwise brought to the
29 attention of the child by such additional means as prescribed by
30 regulation:

31 1. To receive an education as required by law; and

32 2. To receive an allowance from the agency which provides
33 child welfare services in an amount equivalent to any allowance
34 required to be provided to children who reside in foster homes.

35 **Sec. 18.** NRS 432B.6085 is hereby amended to read as
36 follows:

37 432B.6085 1. Nothing in this chapter purports to deprive any
38 person of any legal rights without due process of law.

39 2. Unless the context clearly indicates otherwise, the provisions
40 of NRS 432B.607 to 432B.6085, inclusive, 433.456 to 433.543,
41 inclusive, *and section 1 of this act* and *NRS* 433.545 to 433.551,
42 inclusive, and chapters 433A and 433B of NRS and NRS 435.530 to
43 435.635, inclusive, apply to all children who are in the custody of an
44 agency which provides child welfare services.



1 **Sec. 19.** The provisions of NRS 354.599 do not apply to any
2 additional expenses of a local government that are related to the
3 provisions of this act.

4 **Sec. 20.** This act becomes effective:

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

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

