

ASSEMBLY BILL NO. 299—ASSEMBLYMEN COHEN;
JAUREGUI, OHRENSCHALL AND SWANK

MARCH 15, 2017

Referred to Committee on Health and Human Services

SUMMARY—Requires certain persons to receive training concerning the provision of care. (BDR 40-985)

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 health care; requiring a person who provides care to persons in certain facilities for compensation to receive training concerning the provision of care; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires an employee to receive training to recognize and prevent
2 the abuse of older persons if the employee will provide care to a person in a: (1)
3 facility for intermediate care; (2) facility for skilled nursing; (3) agency to provide
4 personal care services in the home; (4) facility for the care of adults during the day;
5 (5) residential facility for groups; or (6) home for individual residential care. (NRS
6 449.093) **Section 1** of this bill requires a person who is not a provider of health care
7 and who will provide care to a person through employment or a contractual
8 agreement with such a facility to receive training concerning the provision of care
9 and successfully complete a competency evaluation. The remaining sections of this
10 bill make conforming changes.

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 a new section to read as follows:

1. Any person who is not a provider of health care and who will provide care to a person through employment or a contractual arrangement with a facility for intermediate care, facility for skilled nursing, agency to provide personal care services in the home, facility for the care of adults during the day, residential



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1 facility for groups or home for individual residential care must,
2 before providing such care:

3 (a) Receive the training described in subsection 2; and

4 (b) Successfully complete a competency evaluation concerning
5 the types of care that the person will provide.

6 2. The training required by subsection 1 must be conducted
7 by a registered nurse and include instruction concerning:

8 (a) Requirements for documenting the care provided by the
9 person;

10 (b) Methods for reporting to a supervisor any changes in the
11 condition of the person to whom care is provided;

12 (c) Practices for the control of infection, including, without
13 limitation, blood-borne pathogens;

14 (d) Maintenance of a clean and safe environment;

15 (e) Appropriate and safe techniques for performing tasks
16 related to personal hygiene, including, without limitation:

17 (1) The elimination of wastes from the body;

18 (2) Dressing and undressing;

19 (3) Bathing;

20 (4) Grooming and hair care;

21 (5) Care of teeth, gums and oral prosthetic devices; and

22 (6) Care and use of hearing aids;

23 (f) If the person provides care to an elderly person or other
24 person at risk of falling, the prevention of falls;

25 (g) Techniques for providing standby assistance;

26 (h) Assisting a person to whom care is provided with
27 medication, exercise and treatment;

28 (i) Basic nutrition, food safety, assistance with eating and meal
29 preparation, including preparing meals pursuant to a modified
30 diet ordered by a provider of health care;

31 (j) Communicating with the person to whom care is provided
32 in a manner that preserves the dignity of the person and respects
33 the preferences, culture and family of the person;

34 (k) Awareness of confidentiality and privacy, including the
35 applicable requirements of the Health Insurance Portability and
36 Accountability Act of 1996, Public Law 104-191, and the
37 regulations adopted pursuant thereto;

38 (l) Understanding appropriate boundaries between the person
39 providing care and the person to whom care is provided and his or
40 her family;

41 (m) Procedures to handle likely emergencies;

42 (n) Use of common health technology equipment and assistive
43 devices; and

44 (o) To the extent applicable to the person:



1 (1) *Observing, reporting and documenting the status of the*
2 *person to whom care is provided;*

3 (2) *Basic knowledge of body functioning, changes in body*
4 *functioning, injuries and other important changes in status;*

5 (3) *Reading and recording temperature, pulse and*
6 *respiration;*

7 (4) *Recognizing the physical, emotional, cognitive and*
8 *developmental needs of the person to whom care is provided;*

9 (5) *Techniques for the safe transfer of the person to whom*
10 *care is provided and assisting the person with ambulation; and*

11 (6) *Range of motion and positioning exercises.*

12 3. *A facility for intermediate care, facility for skilled nursing,*
13 *agency to provide personal care services in the home, facility for*
14 *the care of adults during the day, residential facility for groups or*
15 *home for individual residential care is responsible for the costs*
16 *related to providing the training and competency evaluation*
17 *required by this section.*

18 4. *The administrator of a facility for intermediate care,*
19 *facility for skilled nursing or residential facility for groups who is*
20 *licensed pursuant to chapter 654 of NRS shall ensure that each*
21 *person who is required to comply with the requirements for*
22 *training and a competency evaluation pursuant to this section*
23 *complies with those requirements. If such a person does not obtain*
24 *the training and complete the competency evaluation required by*
25 *this section, the Division shall notify the Board of Examiners for*
26 *Long-Term Care Administrators that the administrator in charge*
27 *of the facility in which the person is employed or contracted is in*
28 *violation of this section.*

29 5. *The holder of a license to operate a facility for*
30 *intermediate care, facility for skilled nursing, agency to provide*
31 *personal care services in the home, facility for the care of adults*
32 *during the day, residential facility for groups or home for*
33 *individual residential care shall ensure that each person who is*
34 *required to comply with the requirements for training and a*
35 *competency evaluation pursuant to this section complies with*
36 *those requirements. The Division may, for any violation of this*
37 *section, take disciplinary action against a facility, agency or home*
38 *pursuant to NRS 449.160 and 449.163.*

39 6. *As used in this section, "standby assistance" means*
40 *physical intervention or cueing to prevent a person from injuring*
41 *himself or herself while performing activities of daily living.*

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

43 449.0301 The provisions of NRS 449.030 to 449.2428,
44 inclusive, *and section 1 of this act* do not apply to:



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

8 2. Foster homes as defined in NRS 424.014.

9 3. Any medical facility or facility for the dependent operated
10 and maintained by the United States Government or an agency
11 thereof.

12 **Sec. 3.** NRS 449.160 is hereby amended to read as follows:

13 449.160 1. The Division may deny an application for a
14 license or may suspend or revoke any license issued under the
15 provisions of NRS 449.030 to 449.2428, inclusive, *and section 1 of*
16 *this act* upon any of the following grounds:

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

21 (b) Aiding, abetting or permitting the commission of any illegal
22 act.

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

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

28 (e) Failure of the applicant to obtain written approval from the
29 Director of the Department of Health and Human Services as
30 required by NRS 439A.100 or as provided in any regulation adopted
31 pursuant to NRS 449.001 to 449.430, inclusive, *and section 1 of*
32 *this act* and 449.435 to 449.965, inclusive, if such approval is
33 required.

34 (f) Failure to comply with the provisions of NRS 449.2486.

35 2. In addition to the provisions of subsection 1, the Division
36 may revoke a license to operate a facility for the dependent if, with
37 respect to that facility, the licensee that operates the facility, or an
38 agent or employee of the licensee:

39 (a) Is convicted of violating any of the provisions of
40 NRS 202.470;

41 (b) Is ordered to but fails to abate a nuisance pursuant to NRS
42 244.360, 244.3603 or 268.4124; or

43 (c) Is ordered by the appropriate governmental agency to correct
44 a violation of a building, safety or health code or regulation but fails
45 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. 4. 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



1 compliance with the applicable statutes, conditions, standards and
2 regulations; or

3 (2) Improvements are made to correct the violation.

4 2. If a violation by a medical facility or facility for the
5 dependent relates to the health or safety of a patient, an
6 administrative penalty imposed pursuant to paragraph (d) of
7 subsection 1 must be in a total amount of not less than \$1,000 and
8 not more than \$10,000 for each patient who was harmed or at risk of
9 harm as a result of the violation.

10 3. If the facility fails to pay any administrative penalty imposed
11 pursuant to paragraph (d) of subsection 1, the Division may:

12 (a) Suspend the license of the facility until the administrative
13 penalty is paid; and

14 (b) Collect court costs, reasonable attorney's fees and other
15 costs incurred to collect the administrative penalty.

16 4. The Division may require any facility that violates any
17 provision of NRS 439B.410 or 449.030 to 449.2428, inclusive, *and*
18 *section 1 of this act*, or any condition, standard or regulation
19 adopted by the Board to make any improvements necessary to
20 correct the violation.

21 5. Any money collected as administrative penalties pursuant to
22 paragraph (d) of subsection 1 must be accounted for separately and
23 used to administer and carry out the provisions of NRS 449.001 to
24 449.430, inclusive, *and section 1 of this act* and 449.435 to
25 449.965, inclusive, to protect the health, safety, well-being and
26 property of the patients and residents of facilities in accordance with
27 applicable state and federal standards or for any other purpose
28 authorized by the Legislature.

29 **Sec. 5.** NRS 449.220 is hereby amended to read as follows:

30 449.220 1. The Division may bring an action in the name of
31 the State to enjoin any person, state or local government unit or
32 agency thereof from operating or maintaining any facility within the
33 meaning of NRS 449.030 to 449.2428, inclusive ~~H~~, *and section 1*
34 *of this act*:

35 (a) Without first obtaining a license therefor; or

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

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

41 **Sec. 6.** NRS 654.190 is hereby amended to read as follows:

42 654.190 1. The Board may, after notice and an opportunity
43 for a hearing as required by law, impose an administrative fine of
44 not more than \$10,000 for each violation on, recover reasonable
45 investigative fees and costs incurred from, suspend, revoke, deny



1 the issuance or renewal of or place conditions on the license of, and
2 place on probation or impose any combination of the foregoing on
3 any nursing facility administrator or administrator of a residential
4 facility for groups who:

5 (a) Is convicted of a felony relating to the practice of
6 administering a nursing facility or residential facility or of any
7 offense involving moral turpitude.

8 (b) Has obtained his or her license by the use of fraud or deceit.

9 (c) Violates any of the provisions of this chapter.

10 (d) Aids or abets any person in the violation of any of the
11 provisions of NRS 449.030 to 449.2428, inclusive, *and section 1 of*
12 *this act*, as those provisions pertain to a facility for skilled nursing,
13 facility for intermediate care or residential facility for groups.

14 (e) Violates any regulation of the Board prescribing additional
15 standards of conduct for nursing facility administrators or
16 administrators of residential facilities for groups, including, without
17 limitation, a code of ethics.

18 (f) Engages in conduct that violates the trust of a patient or
19 resident or exploits the relationship between the nursing facility
20 administrator or administrator of a residential facility for groups and
21 the patient or resident for the financial or other gain of the licensee.

22 2. If a licensee requests a hearing pursuant to subsection 1, the
23 Board shall give the licensee written notice of a hearing pursuant to
24 NRS 233B.121 and 241.034. A licensee may waive, in writing, his
25 or her right to attend the hearing.

26 3. The Board may compel the attendance of witnesses or the
27 production of documents or objects by subpoena. The Board may
28 adopt regulations that set forth a procedure pursuant to which the
29 Chair of the Board may issue subpoenas on behalf of the Board.
30 Any person who is subpoenaed pursuant to this subsection may
31 request the Board to modify the terms of the subpoena or grant
32 additional time for compliance.

33 4. An order that imposes discipline and the findings of fact and
34 conclusions of law supporting that order are public records.

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

40 **Sec. 7.** This act becomes effective upon passage and approval
41 for the purpose of adopting regulations and performing any other
42 administrative tasks that are necessary to carry out the provisions of
43 this act and on January 1, 2018, for all other purposes.

