

ASSEMBLY BILL NO. 347—ASSEMBLYWOMAN JOINER

MARCH 20, 2017

Referred to Committee on Health and Human Services

SUMMARY—Establishes certain requirements relating to surgical technologists. (BDR 40-721)

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 surgical technologists; prohibiting a hospital, independent center for emergency care, psychiatric hospital or surgical center for ambulatory patients from employing a surgical technologist who does not possess certain qualifications; requiring such a facility to ensure that each surgical technologist at the facility receives certain continuing education; authorizing the State Board of Health and the Division of Public and Behavioral Health of the Department of Health and Human Services to enforce those requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires the State Board of Health and the Division of Public and
2 Behavioral Health of the Department of Health and Human Services to license and
3 regulate medical facilities, including hospitals, independent centers for emergency
4 medical care, psychiatric hospitals and surgical centers for ambulatory patients.
5 (NRS 449.030, 449.0302) **Section 2** of this bill defines the term “practice of
6 surgical technology” to mean performing tasks in preparation for surgery and
7 providing certain care in collaboration with a team of health care providers and
8 other persons to assist with surgery. **Section 4** of this bill prohibits a hospital,
9 independent center for emergency care, psychiatric hospital or surgical center for
10 ambulatory patients from employing or otherwise allowing a person to practice
11 surgical technology at the facility unless the person is a Certified Surgical
12 Technologist or possesses certain other qualifications. **Section 4** also authorizes
13 such a facility to employ or allow a person who does not possess such
14 qualifications to engage in the practice of surgical technology if: (1) the person is a
15 recent graduate of a surgical technology program but has not yet obtained the
16 required certification; or (2) after a diligent and thorough search, the facility is
17 unable to employ a sufficient number of surgical technologists who meet such



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requirements. **Section 5** of this bill requires such a facility to ensure that each surgical technologist at the facility successfully completes certain continuing education and maintain certain records.

Sections 6 and 7 of this bill exempt certain facilities and persons, including physician assistants and registered nurses, from the requirements of this bill concerning the qualifications of surgical technologists. **Section 8** of this bill requires the State Board of Health to adopt regulations to enforce the requirements of this bill. **Sections 9-14** of this bill authorize the Division and the district attorney of the county in which a hospital, independent center for emergency care, psychiatric hospital or surgical center for ambulatory patients is located to take certain actions to enforce the requirements of this bill.

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 the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. 1. "Practice of surgical technology" means performing tasks in preparation for surgery and providing care in collaboration with a team of providers of health care and other persons to a patient before, during and after surgery. The term includes, without limitation:

(a) Working with a registered nurse to carry out a plan to care for the patient and prepare the operating room for surgery;

(b) Preparing and gathering sterile supplies, instruments and equipment necessary for a surgical procedure;

(c) Ensuring that surgical equipment is functioning properly and safely; and

(d) In the operating room under the direction of an appropriate provider of health care:

(1) Ensuring that the area in which the surgery is conducted remains sterile;

(2) Anticipating and responding to the needs of the surgeon and other members of the team during surgery;

(3) Passing supplies, instruments and equipment to other members of the team;

(4) Sponging or suctioning the operative site of the patient;

(5) Preparing and cutting materials for sutures;

(6) Transferring and irrigating with fluids;

(7) Transferring drugs to other members of the team;

(8) Handling specimens;

(9) Holding retractors and other instruments and equipment;

(10) Applying electrocautery to clamps on blood vessels cut during surgery;



(11) Connecting drains and catheters to suction or drainage apparatus;

(12) Applying skin staples and dressings to closed wounds;

(13) Counting sponges, needles and other supplies and instruments; and

(14) Removing instruments after the completion of surgery.

2. The term does not include administering a drug to a patient.

Sec. 3. "Surgical technologist" means a person who is engaged in the practice of surgical technology at a health care facility.

Sec. 4. Except as otherwise provided in this section and NRS 449.0301 and section 6 of this act:

1. A health care facility may not employ or otherwise allow a person to engage in the practice of surgical technology at the health care facility unless the person has:

(a) Successfully completed a program for surgical technologists that is accredited by a national accrediting organization and is certified as a Certified Surgical Technologist by the National Board of Surgical Technology and Surgical Assisting or a successor organization;

(b) Successfully completed a training program for surgical technologists administered by the United States Public Health Service, Army, Navy, Air Force, Marine Corps or Coast Guard; or

(c) Engaged in the practice of surgical technology in a health care facility before January 1, 2018.

2. A health care facility may employ or otherwise allow a person who has successfully completed a program for surgical technologists that is accredited by a national accrediting organization but who is not certified as a Certified Surgical Technologist pursuant to paragraph (a) of subsection 1 to engage in the practice of surgical technology at the health care facility for 180 days after the date on which the person successfully completed the program.

3. A health care facility may employ a person who does not possess the qualifications prescribed by subsection 1 to engage in the practice of surgical technology at the health care facility if, after conducting a thorough and diligent search, the health care facility is unable to employ a sufficient number of surgical technologists who possess such qualifications. A health care facility may continue to employ such a person after the health care facility determines it is able to employ a sufficient number of surgical technologists who possess such qualifications.

Sec. 5. Except as otherwise provided in section 6 of this act, a health care facility that employs or otherwise allows a person to



engage in the practice of surgical technology at the health care facility shall:

1. Ensure that each such person, including, without limitation, a person who does not possess the qualifications prescribed by subsection 1 of section 4 of this act, successfully completes not less than 15 hours annually of continuing education concerning the practice of surgical technology; and

2. Maintain records showing that the health care facility is in compliance with this section and section 4 of this act, including, without limitation:

(a) Records of continuing education completed by surgical technologists;

(b) Records demonstrating that a surgical technologist employed by the health care facility possesses the qualifications prescribed by subsection 1 of section 4 of this act; and

(c) If the health care facility employs a person who does not possess the qualifications prescribed by subsection 1 of section 4 of this act pursuant to subsection 3 of that section, records of the efforts of the health care facility to search for a sufficient number of surgical technologists who possess the qualifications prescribed by subsection 1 of that section before employing the person.

Sec. 6. Sections 4 and 5 of this act do not apply to a person who is licensed or certified pursuant to title 54 of NRS and performs an activity listed in section 2 of this act that is within the scope of such licensure or certification.

Sec. 7. NRS 449.0301 is hereby amended to read as follows:
449.0301 The provisions of NRS 449.030 to 449.2428, inclusive, *and sections 2 to 6, inclusive, of this act* do not apply to:

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

2. Foster homes as defined in NRS 424.014.

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

Sec. 8. NRS 449.0302 is hereby amended to read as follows:

449.0302 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.030 to 449.2428, inclusive, *and sections 2 to 6, inclusive, of this act*, and for programs of hospice care.



(b) Regulations governing the licensing of such facilities and programs.

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his or her home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.030 to 449.2428, inclusive ~~H~~, *and sections 2 to 6, inclusive, of this act.*

2. The Board shall adopt separate regulations governing the licensing and operation of:

(a) Facilities for the care of adults during the day; and

(b) Residential facilities for groups,

➔ which provide care to persons with Alzheimer's disease.

3. The Board shall adopt separate regulations for:

(a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.

(b) The licensure of facilities for refractive surgery which take into consideration the unique factors of operating such a facility.

(c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. In addition to the training requirements prescribed pursuant to NRS 449.093, the Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The



1 regulations must require at least the following conditions before
2 such assistance may be given:

3 (a) The ultimate user's physical and mental condition is stable
4 and is following a predictable course.

5 (b) The amount of the medication prescribed is at a maintenance
6 level and does not require a daily assessment.

7 (c) A written plan of care by a physician or registered nurse has
8 been established that:

9 (1) Addresses possession and assistance in the administration
10 of the medication; and

11 (2) Includes a plan, which has been prepared under the
12 supervision of a registered nurse or licensed pharmacist, for
13 emergency intervention if an adverse condition results.

14 (d) The prescribed medication is not administered by injection
15 or intravenously.

16 (e) The employee has successfully completed training and
17 examination approved by the Division regarding the authorized
18 manner of assistance.

19 7. The Board shall adopt separate regulations governing the
20 licensing and operation of residential facilities for groups which
21 provide assisted living services. The Board shall not allow the
22 licensing of a facility as a residential facility for groups which
23 provides assisted living services and a residential facility for groups
24 shall not claim that it provides "assisted living services" unless:

25 (a) Before authorizing a person to move into the facility, the
26 facility makes a full written disclosure to the person regarding what
27 services of personalized care will be available to the person and the
28 amount that will be charged for those services throughout the
29 resident's stay at the facility.

30 (b) The residents of the facility reside in their own living units
31 which:

32 (1) Except as otherwise provided in subsection 8, contain
33 toilet facilities;

34 (2) Contain a sleeping area or bedroom; and

35 (3) Are shared with another occupant only upon consent of
36 both occupants.

37 (c) The facility provides personalized care to the residents of the
38 facility and the general approach to operating the facility
39 incorporates these core principles:

40 (1) The facility is designed to create a residential
41 environment that actively supports and promotes each resident's
42 quality of life and right to privacy;

43 (2) The facility is committed to offering high-quality
44 supportive services that are developed by the facility in



1 collaboration with the resident to meet the resident's individual
2 needs;

3 (3) The facility provides a variety of creative and innovative
4 services that emphasize the particular needs of each individual
5 resident and the resident's personal choice of lifestyle;

6 (4) The operation of the facility and its interaction with its
7 residents supports, to the maximum extent possible, each resident's
8 need for autonomy and the right to make decisions regarding his or
9 her own life;

10 (5) The operation of the facility is designed to foster a social
11 climate that allows the resident to develop and maintain personal
12 relationships with fellow residents and with persons in the general
13 community;

14 (6) The facility is designed to minimize and is operated in a
15 manner which minimizes the need for its residents to move out of
16 the facility as their respective physical and mental conditions change
17 over time; and

18 (7) The facility is operated in such a manner as to foster a
19 culture that provides a high-quality environment for the residents,
20 their families, the staff, any volunteers and the community at large.

21 8. The Division may grant an exception from the requirement
22 of subparagraph (1) of paragraph (b) of subsection 7 to a facility
23 which is licensed as a residential facility for groups on or before
24 July 1, 2005, and which is authorized to have 10 or fewer beds and
25 was originally constructed as a single-family dwelling if the
26 Division finds that:

27 (a) Strict application of that requirement would result in
28 economic hardship to the facility requesting the exception; and

29 (b) The exception, if granted, would not:

30 (1) Cause substantial detriment to the health or welfare of
31 any resident of the facility;

32 (2) Result in more than two residents sharing a toilet facility;
33 or

34 (3) Otherwise impair substantially the purpose of that
35 requirement.

36 9. The Board shall, if it determines necessary, adopt
37 regulations and requirements to ensure that each residential facility
38 for groups and its staff are prepared to respond to an emergency,
39 including, without limitation:

40 (a) The adoption of plans to respond to a natural disaster and
41 other types of emergency situations, including, without limitation,
42 an emergency involving fire;

43 (b) The adoption of plans to provide for the evacuation of a
44 residential facility for groups in an emergency, including, without



1 limitation, plans to ensure that nonambulatory patients may be
2 evacuated;

3 (c) Educating the residents of residential facilities for groups
4 concerning the plans adopted pursuant to paragraphs (a) and (b); and

5 (d) Posting the plans or a summary of the plans adopted
6 pursuant to paragraphs (a) and (b) in a conspicuous place in each
7 residential facility for groups.

8 10. The regulations governing the licensing and operation of
9 facilities for transitional living for released offenders must provide
10 for the licensure of at least three different types of facilities,
11 including, without limitation:

12 (a) Facilities that only provide a housing and living
13 environment;

14 (b) Facilities that provide or arrange for the provision of
15 supportive services for residents of the facility to assist the residents
16 with reintegration into the community, in addition to providing a
17 housing and living environment; and

18 (c) Facilities that provide or arrange for the provision of alcohol
19 and drug abuse programs, in addition to providing a housing and
20 living environment and providing or arranging for the provision of
21 other supportive services.

22 ➤ The regulations must provide that if a facility was originally
23 constructed as a single-family dwelling, the facility must not be
24 authorized for more than eight beds.

25 11. As used in this section, "living unit" means an individual
26 private accommodation designated for a resident within the facility.

27 **Sec. 9.** NRS 449.0306 is hereby amended to read as follows:

28 449.0306 1. Money received from licensing medical facilities
29 and facilities for the dependent must be forwarded to the State
30 Treasurer for deposit in the State General Fund.

31 2. The Division shall enforce the provisions of NRS 449.030 to
32 449.245, inclusive, *and sections 2 to 6, inclusive, of this act*, and
33 may incur any necessary expenses not in excess of money
34 appropriated for that purpose by the State or received from the
35 Federal Government.

36 **Sec. 10.** NRS 449.0308 is hereby amended to read as follows:

37 449.0308 1. Except as otherwise provided in this section, the
38 Division may charge and collect from a medical facility or facility
39 for the dependent or a person who operates such a facility without a
40 license issued by the Division the actual costs incurred by the
41 Division for the enforcement of the provisions of NRS 449.030 to
42 449.2428, inclusive, including, without limitation, the actual cost of
43 conducting an inspection or investigation of the facility.

44 2. The Division shall not charge and collect the actual cost for
45 enforcement pursuant to subsection 1 if the enforcement activity is:



(a) Related to the issuance or renewal of a license for which the Board charges a fee pursuant to NRS 449.050 or 449.089; or

(b) Conducted pursuant to an agreement with the Federal Government which has appropriated money for that purpose.

3. Any money collected pursuant to subsection 1 may be used by the Division to administer and carry out the provisions of NRS 449.030 to 449.2428, inclusive, and the regulations adopted pursuant thereto.

4. The provisions of this section do not apply to any costs incurred by the Division for the enforcement of the provisions of section 4, 5 or 6 of this act.

Sec. 11. 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 sections 2 to 6, inclusive, 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 sections 2 to 6, inclusive, 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 sections 2 to 6, inclusive, 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.



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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. 12. 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 sections 2 to 6, inclusive, 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 *sections 2 to 6, inclusive, of this act*, or any condition, standard or
19 regulation adopted by the Board to make any improvements
20 necessary to 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 sections 2 to 6, inclusive, of this act* and
25 449.435 to 449.965, inclusive, to protect the health, safety, well-
26 being and property of the patients and residents of facilities in
27 accordance with applicable state and federal standards or for any
28 other purpose authorized by the Legislature.

29 **Sec. 13.** 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 ~~§~~, *and sections 2*
34 *to 6, inclusive, 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. 14.** NRS 449.240 is hereby amended to read as follows:

42 449.240 The district attorney of the county in which the facility
43 is located shall, upon application by the Division, institute and
44 conduct the prosecution of any action for violation of any provisions



1 of NRS 449.030 to 449.245, inclusive ~~H~~ , and sections 2 to 6,
2 *inclusive, of this act.*

3 **Sec. 15.** NRS 449.241 is hereby amended to read as follows:

4 449.241 As used in NRS 449.241 to 449.2428, inclusive, *and*
5 *sections 2 to 6, inclusive, of this act*, unless the context otherwise
6 requires, the words and terms defined in NRS 449.2413 to
7 449.2418, inclusive, *and sections 2 and 3 of this act* have the
8 meanings ascribed to them in those sections.

9 **Sec. 16.** The provisions of subsection 1 of NRS 218D.380 do
10 not apply to any provision of this act which adds or revises a
11 requirement to submit a report to the Legislature.

12 **Sec. 17.** This act becomes effective upon passage and approval
13 for the purpose of adopting regulations and performing any other
14 administrative tasks that are necessary to carry out the provisions of
15 this act, and on January 1, 2018, for all other purposes.

