

Senate Bill No. 388—Senators Gansert, Hardy, Gustavson, Harris, Cancela; Cannizzaro, Goicoechea, Kieckhefer, Ratti, Segerblom, Settelmeyer, Spearman and Woodhouse

Joint Sponsors: Assemblymen Edwards, Ellison; Krasner, Spiegel, Sprinkle, Swank, Tolles and Wheeler

CHAPTER.....

AN ACT relating to personal services; requiring a person to obtain a license from the State Board of Health to operate an employment agency that contracts with persons to provide certain nonmedical services to certain persons in the home; requiring the Board to adopt regulations establishing standards for the licensing of such employment agencies; prohibiting an employment agency from contracting with a person to provide certain nonmedical services to certain persons in the home if that person has not submitted a set of fingerprints to the Central Repository for Nevada Records of Criminal History; providing a civil penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain businesses, facilities, hospitals, agencies, programs and homes to obtain a license from the State Board of Health. (NRS 449.0305, 449.040) **Section 5** of this bill requires an employment agency that contracts with persons to provide nonmedical services related to personal care to elderly persons or persons with disabilities in the home to obtain a license from the Board. **Section 3** of this bill sets forth the nonmedical services such agencies are authorized to perform. **Section 5** requires the Board to adopt regulations that govern the licensing of such employment agencies. **Section 5** also prohibits an employment agency from referring a person to a home to provide such nonmedical services if the employment agency has not conducted a background investigation on that person. Finally, **section 5** imposes a civil penalty on an employment agency who refers a person to a home to provide such nonmedical services without conducting a background investigation on the person.

Existing law requires certain facilities, hospitals, agencies, programs and homes to conduct a background investigation of the criminal and personal history of certain persons employed or contracted with by such a facility, hospital, agency, program or home. (NRS 449.123) **Section 10** of this bill extends this requirement to an employment agency that contracts with persons to provide nonmedical services related to personal care to elderly persons or persons with disabilities in the home.



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 5, inclusive, of this act.

Sec. 2. *“Employment agency” has the meaning ascribed to it in NRS 611.020.*

Sec. 3. *“Nonmedical services related to personal care to elderly persons or persons with disabilities” includes, without limitation:*

- 1. The elimination of wastes from the body;*
- 2. Dressing and undressing;*
- 3. Bathing;*
- 4. Grooming;*
- 5. The preparation and eating of meals;*
- 6. Laundry;*
- 7. Shopping;*
- 8. Cleaning;*
- 9. Transportation; and*
- 10. Any other minor needs related to the maintenance of personal hygiene.*

Sec. 4. *A person who is licensed pursuant to a provision of this chapter other than section 5 of this act and who contracts with persons to provide nonmedical services related to personal care to elderly persons or persons with disabilities is not required to obtain an additional license pursuant to section 5 of this act.*

Sec. 5. *1. Except as otherwise provided in section 4 of this act, a person must obtain a license from the Board to operate an employment agency that contracts with persons to provide nonmedical services related to personal care to elderly persons or persons with disabilities in the home.*

2. The Board shall adopt:

(a) Standards for licensing of employment agencies that provide nonmedical services related to personal care to elderly persons or persons with disabilities in the home;

(b) Standards relating to the fees charged by such employment agencies;

(c) Regulations governing the licensing of such employment agencies; and



(d) Regulations establishing requirements for training the persons who contract with such employment agencies to provide such nonmedical services.

3. An employment agency that is licensed pursuant to this section shall not refer a person to a home to provide nonmedical services related to personal care to elderly persons or persons with disabilities if that person has not met the requirements set forth in NRS 449.119 to 449.125, inclusive.

4. A person who violates the provisions of subsection 3 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 sections 2 to 5, inclusive, of this act, and 449.435 to 449.965, inclusive, and to protect the health, safety, well-being and property of the persons served by employment agencies.

Sec. 6. NRS 449.001 is hereby amended to read as follows:

449.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.0195, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 7. NRS 449.030 is hereby amended to read as follows:

449.030 1. Except as otherwise provided in NRS 449.03013 and 449.03015, *and section 4 of this act*, no person, state or local government or agency thereof may operate or maintain in this State any medical facility or facility for the dependent without first obtaining a license therefor as provided in NRS 449.030 to 449.2428, inclusive **H**, *and sections 2 to 5, inclusive, of this act.*

2. Unless licensed as a facility for hospice care, a person, state or local government or agency thereof shall not operate a program of hospice care without first obtaining a license for the program from the Board.

Sec. 8. 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 5, 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. 9. NRS 449.0305 is hereby amended to read as follows:

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

2. The Board shall adopt:

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

(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 sections 2 to 5, inclusive, 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, on October 1, 1999.

Sec. 10. NRS 449.119 is hereby amended to read as follows:

449.119 As used in NRS 449.119 to 449.125, inclusive, “facility, hospital, agency, program or home” means an agency to provide personal care services in the home, *an employment agency that contracts with persons to provide nonmedical services related to personal care to elderly persons or persons with disabilities in the home*, an agency to provide nursing in the home, a community health worker pool, a facility for intermediate care, a facility for skilled nursing, a hospital described in 42 U.S.C. § 1395ww(d)(1)(B)(iv) which accepts payment through Medicare, a peer support recovery organization, a residential facility for groups, a program of hospice care, a home for individual residential care, a facility for the care of adults during the day, a facility for hospice care, a nursing pool, the distinct part of a hospital which meets the requirements of a skilled nursing facility or nursing facility pursuant to 42 C.F.R. § 483.5(b)(2), a hospital that provides swing-bed services as described in 42 C.F.R. § 482.66 or, if residential services are provided to children, a medical facility or facility for the treatment of abuse of alcohol or drugs.

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 5, 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 5, 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 5, 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.

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 449.1935 is hereby amended to read as follows:

449.1935 An agency to provide personal care services in the home that is licensed pursuant to this section and NRS 449.030 to 449.2428, inclusive, may, through its employees or by contractual arrangement with other persons, provide:



1. To persons with disabilities, any medical services authorized pursuant to NRS 629.091; and

2. Nonmedical services related to personal care to elderly persons or persons with disabilities to assist those persons with activities of daily living. ~~1, including, without limitation:~~

- ~~—(a) The elimination of wastes from the body;~~
- ~~—(b) Dressing and undressing;~~
- ~~—(c) Bathing;~~
- ~~—(d) Grooming;~~
- ~~—(e) The preparation and eating of meals;~~
- ~~—(f) Laundry;~~
- ~~—(g) Shopping;~~
- ~~—(h) Cleaning;~~
- ~~—(i) Transportation; and~~
- ~~—(j) Any other minor needs related to the maintenance of personal hygiene.]~~

Sec. 13. NRS 449.220 is hereby amended to read as follows:

449.220 1. The Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.030 to 449.2428, inclusive ~~1~~, *and sections 2 to 5, inclusive, of this act:*

- (a) Without first obtaining a license therefor; or
- (b) After his or her license has been revoked or suspended by the Division.

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

Sec. 14. This act becomes effective on July 1, 2017.

