

SENATE BILL NO. 482—COMMITTEE ON
HEALTH AND HUMAN SERVICES

MARCH 27, 2017

Referred to Committee on Health and Human Services

SUMMARY—Provides for the establishment of a system for rating certain health care facilities. (BDR 40-605)

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 the State Board of Health to establish a system for rating medical facilities and facilities for the dependent using letter grades; requiring the posting of the letter grade assigned to such a facility in certain places; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Division of Public and Behavioral Health of the Department of Health and Human Services to conduct inspections to ensure compliance with all applicable regulations and standards. (NRS 449.132) This bill requires: (1) the State Board of Health to establish a system for rating medical facilities and facilities for the dependent based on those inspections; (2) the rating system to provide for the assignment of a letter grade of A, B, C, D or F to each medical facility or facility for the dependent based on compliance with applicable statutes, regulations and standards; and (3) the rating of each facility to be posted on the Internet website maintained by the Division and in a conspicuous place near each entrance to the facility that is regularly used by the public.

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. The Board shall adopt regulations establishing:
(a) A system for rating each medical facility and facility for the dependent based on an inspection conducted by the Division***



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1 *pursuant to NRS 449.132. The rating system must provide for the*
2 *assignment of a letter grade of A, B, C, D or F to each medical*
3 *facility or facility for the dependent based on compliance with*
4 *applicable statutes, regulations and standards, including, without*
5 *limitation, the number of resolved and unresolved violations and*
6 *the severity of those violations.*

7 *(b) Procedures by which a medical facility or facility for the*
8 *dependent that is assigned a grade of C, D or F may request a*
9 *follow-up inspection.*

10 *2. Not later than 30 days after inspecting a medical facility or*
11 *facility for the dependent pursuant to NRS 449.132, the Division*
12 *shall post on an Internet website maintained by the Division a*
13 *report which must include:*

14 *(a) The letter grade assigned to the facility pursuant to*
15 *subsection 1; and*

16 *(b) A report of each unresolved violation of an applicable*
17 *statute or regulation and proposed actions to correct the violation.*

18 *3. A medical facility or facility for the dependent shall post*
19 *the letter grade assigned to the facility pursuant to subsection 1*
20 *after the most recent inspection in a conspicuous place near each*
21 *entrance to the facility that is regularly used by the public and*
22 *inform any person of that letter grade upon request.*

23 **Sec. 2.** NRS 449.030 is hereby amended to read as follows:

24 449.030 1. Except as otherwise provided in NRS 449.03013
25 and 449.03015, no person, state or local government or agency
26 thereof may operate or maintain in this State any medical facility or
27 facility for the dependent without first obtaining a license therefor as
28 provided in NRS 449.030 to 449.2428, inclusive **H**, *and section 1*
29 *of this act.*

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

34 **Sec. 3.** NRS 449.0301 is hereby amended to read as follows:

35 449.0301 The provisions of NRS 449.030 to 449.2428,
36 inclusive, *and section 1 of this act* do not apply to:

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

44 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. 4. 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 section 1 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 section 1 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.



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

7 6. The Board shall adopt separate regulations regarding the
8 assistance which may be given pursuant to NRS 453.375 and
9 454.213 to an ultimate user of controlled substances or dangerous
10 drugs by employees of residential facilities for groups. The
11 regulations must require at least the following conditions before
12 such assistance may be given:

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

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

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

19 (1) Addresses possession and assistance in the administration
20 of the medication; and

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

24 (d) The prescribed medication is not administered by injection
25 or intravenously.

26 (e) The employee has successfully completed training and
27 examination approved by the Division regarding the authorized
28 manner of assistance.

29 7. The Board shall adopt separate regulations governing the
30 licensing and operation of residential facilities for groups which
31 provide assisted living services. The Board shall not allow the
32 licensing of a facility as a residential facility for groups which
33 provides assisted living services and a residential facility for groups
34 shall not claim that it provides "assisted living services" unless:

35 (a) Before authorizing a person to move into the facility, the
36 facility makes a full written disclosure to the person regarding what
37 services of personalized care will be available to the person and the
38 amount that will be charged for those services throughout the
39 resident's stay at the facility.

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

42 (1) Except as otherwise provided in subsection 8, contain
43 toilet facilities;

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



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

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

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

(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;

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

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

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

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

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

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

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

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

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

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

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



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

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

8 (b) The adoption of plans to provide for the evacuation of a
9 residential facility for groups in an emergency, including, without
10 limitation, plans to ensure that nonambulatory patients may be
11 evacuated;

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

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

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

21 (a) Facilities that only provide a housing and living
22 environment;

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

27 (c) Facilities that provide or arrange for the provision of alcohol
28 and drug abuse programs, in addition to providing a housing and
29 living environment and providing or arranging for the provision of
30 other supportive services.

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

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

36 **Sec. 5.** NRS 449.0306 is hereby amended to read as follows:

37 449.0306 1. Money received from licensing medical facilities
38 and facilities for the dependent must be forwarded to the State
39 Treasurer for deposit in the State General Fund.

40 2. The Division shall enforce the provisions of NRS 449.030 to
41 449.245, inclusive, *and section 1 of this act*, and may incur any
42 necessary expenses not in excess of money appropriated for that
43 purpose by the State or received from the Federal Government.



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

2 449.160 1. The Division may deny an application for a
3 license or may suspend or revoke any license issued under the
4 provisions of NRS 449.030 to 449.2428, inclusive, *and section 1 of*
5 *this act* upon any of the following grounds:

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

10 (b) Aiding, abetting or permitting the commission of any illegal
11 act.

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

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

17 (e) Failure of the applicant to obtain written approval from the
18 Director of the Department of Health and Human Services as
19 required by NRS 439A.100 or as provided in any regulation adopted
20 pursuant to NRS 449.001 to 449.430, inclusive, *and section 1 of*
21 *this act* and 449.435 to 449.965, inclusive, if such approval is
22 required.

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

24 2. In addition to the provisions of subsection 1, the Division
25 may revoke a license to operate a facility for the dependent if, with
26 respect to that facility, the licensee that operates the facility, or an
27 agent or employee of the licensee:

28 (a) Is convicted of violating any of the provisions of
29 NRS 202.470;

30 (b) Is ordered to but fails to abate a nuisance pursuant to NRS
31 244.360, 244.3603 or 268.4124; or

32 (c) Is ordered by the appropriate governmental agency to correct
33 a violation of a building, safety or health code or regulation but fails
34 to correct the violation.

35 3. The Division shall maintain a log of any complaints that it
36 receives relating to activities for which the Division may revoke the
37 license to operate a facility for the dependent pursuant to subsection
38 2. The Division shall provide to a facility for the care of adults
39 during the day:

40 (a) A summary of a complaint against the facility if the
41 investigation of the complaint by the Division either substantiates
42 the complaint or is inconclusive;

43 (b) A report of any investigation conducted with respect to the
44 complaint; and

45 (c) A report of any disciplinary action taken against the facility.



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1 ↪ The facility shall make the information available to the public
2 pursuant to NRS 449.2486.

3 4. On or before February 1 of each odd-numbered year, the
4 Division shall submit to the Director of the Legislative Counsel
5 Bureau a written report setting forth, for the previous biennium:

6 (a) Any complaints included in the log maintained by the
7 Division pursuant to subsection 3; and

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

10 **Sec. 7.** NRS 449.163 is hereby amended to read as follows:

11 449.163 1. In addition to the payment of the amount required
12 by NRS 449.0308, if a medical facility or facility for the dependent
13 violates any provision related to its licensure, including any
14 provision of NRS 439B.410 or 449.030 to 449.2428, inclusive, *and*
15 *section 1 of this act* or any condition, standard or regulation adopted
16 by the Board, the Division, in accordance with the regulations
17 adopted pursuant to NRS 449.165, may:

18 (a) Prohibit the facility from admitting any patient until it
19 determines that the facility has corrected the violation;

20 (b) Limit the occupancy of the facility to the number of beds
21 occupied when the violation occurred, until it determines that the
22 facility has corrected the violation;

23 (c) If the license of the facility limits the occupancy of the
24 facility and the facility has exceeded the approved occupancy,
25 require the facility, at its own expense, to move patients to another
26 facility that is licensed;

27 (d) Impose an administrative penalty of not more than \$1,000
28 per day for each violation, together with interest thereon at a rate not
29 to exceed 10 percent per annum; and

30 (e) Appoint temporary management to oversee the operation of
31 the facility and to ensure the health and safety of the patients of the
32 facility, until:

33 (1) It determines that the facility has corrected the violation
34 and has management which is capable of ensuring continued
35 compliance with the applicable statutes, conditions, standards and
36 regulations; or

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

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

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



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

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

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

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

Sec. 8. 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 ~~†~~, *and section 1 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. 9. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and an opportunity for a hearing as required by law, impose an administrative fine of not more than \$10,000 for each violation on, recover reasonable investigative fees and costs incurred from, suspend, revoke, deny the issuance or renewal of or place conditions on the license of, and place on probation or impose any combination of the foregoing on any nursing facility administrator or administrator of a residential facility for groups who:

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

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

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

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.030 to 449.2428, inclusive, *and section 1 of*



1 *this act*, as those provisions pertain to a facility for skilled nursing,
2 facility for intermediate care or residential facility for groups.

3 (e) Violates any regulation of the Board prescribing additional
4 standards of conduct for nursing facility administrators or
5 administrators of residential facilities for groups, including, without
6 limitation, a code of ethics.

7 (f) Engages in conduct that violates the trust of a patient or
8 resident or exploits the relationship between the nursing facility
9 administrator or administrator of a residential facility for groups and
10 the patient or resident for the financial or other gain of the licensee.

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

15 3. The Board may compel the attendance of witnesses or the
16 production of documents or objects by subpoena. The Board may
17 adopt regulations that set forth a procedure pursuant to which the
18 Chair of the Board may issue subpoenas on behalf of the Board.
19 Any person who is subpoenaed pursuant to this subsection may
20 request the Board to modify the terms of the subpoena or grant
21 additional time for compliance.

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

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

29 **Sec. 10.** This act becomes effective upon passage and approval
30 for the purpose of adopting regulations and performing any other
31 administrative tasks that are necessary to carry out the provisions of
32 this act and on January 1, 2018, for all other purposes.

