

ASSEMBLY BILL NO. 124—ASSEMBLYWOMEN
MUNK; AND GORELOW

FEBRUARY 11, 2019

Referred to Committee on Health and Human Services

SUMMARY—Requires a hospital or independent center for emergency medical care to take certain actions when treating a female victim of sexual assault. (BDR 40-591)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 hospital or independent center for emergency medical care to adopt a written plan to ensure the performance of certain tasks when treating a female victim of sexual assault; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, each patient of a medical facility or facility for the dependent has the right to receive from his or her physician a description of his or her diagnosis, plan for treatment and prognosis, any information necessary to give informed consent to a procedure or treatment and, upon request, information on alternatives to the treatment or procedure. (NRS 449A.106) **Section 1** of this bill requires each hospital or independent center for emergency medical care to adopt a written plan to ensure that a female victim of sexual assault who is treated in the hospital or independent center for emergency medical care is provided with medically and factually accurate written information concerning emergency contraception, prophylactic antibiotics and certain other services for female victims of sexual assault and an oral explanation of that information in a language the victim understands. In addition, the victim must be offered the opportunity to receive emergency contraception or prophylactic antibiotics that are available at the hospital or independent center for emergency medical care. **Section 1** also requires the written plan to be approved by the Division of Public and Behavioral Health of the Department of Health and Human Services. **Sections 2-8** of this bill make conforming changes to allow the Division to enforce the requirements of **section 1**.



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. Each hospital and independent center for emergency medical care shall adopt a written plan to ensure that:

(a) Each female victim of sexual assault or attempted sexual assault who is treated by the hospital or independent center for emergency medical care is:

(1) Provided with medically and factually accurate written information concerning:

(I) Emergency contraception and prophylactic antibiotics, including, without limitation, possible side effects of using those medications and the locations of facilities or pharmacies where those medications are available; and

(II) Other services available to victims of sexual assault, including, without limitation, counseling, a list of clinics and other facilities that specialize in serving victims of sexual assault and a list of locations that provide testing for sexually transmitted diseases;

(2) Provided with an oral explanation of the written information provided pursuant to subparagraph (1) in a language that the victim understands;

(3) Provided contact information for law enforcement or an opportunity to meet with an officer to file a complaint; and

(4) Offered the opportunity to receive any emergency contraception or prophylactic antibiotics available at the hospital or independent center for emergency medical care and provided any such treatment requested immediately in accordance with accepted medical standards; and

(b) Each person responsible for carrying out the tasks described in paragraph (a) receives training concerning the performance of those tasks.

2. Each hospital or independent center for emergency medical care shall submit a written plan adopted pursuant to subsection 1 to the Division for approval. The Division must approve the plan if the Division determines that the plan is likely to meet the objectives prescribed by subsection 1. If the Division does not approve a plan:

(a) The Division must provide to the hospital or independent center for emergency medical care a summary of the reasons for the rejection; and



(b) *The hospital or independent center for emergency medical care must submit to the Division, not later than 30 days after receiving the summary pursuant to paragraph (a), a revised plan.*

3. *As used in this section:*

(a) *"Emergency contraception" means methods of birth control which, when administered within a specified period after intercourse, may prevent pregnancy from occurring.*

(b) *"Sexual assault" means a violation of NRS 200.366 or 200.368.*

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

449.0301 The provisions of NRS 449.029 to 449.2428, inclusive, *and section 1 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, facility for the dependent or facility which is otherwise required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed that is operated and maintained by the United States Government or an agency thereof.

Sec. 3. 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 449.029 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 449.029 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.

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

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

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

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

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

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



(d) Except as otherwise authorized by the regulations adopted pursuant to NRS 449.0304, the prescribed medication is not administered by injection or intravenously.

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

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

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

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

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

(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.

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

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

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

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

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

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

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



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

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

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

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

Sec. 4. NRS 449.0306 is hereby amended to read as follows:

449.0306 1. Money received from licensing medical facilities and facilities for the dependent must be forwarded to the State Treasurer for deposit in the State General Fund to the credit of the Division.

2. The Division shall enforce the provisions of NRS 449.029 to 449.245, inclusive, *and section 1 of this act* and may incur any necessary expenses not in excess of money authorized for that purpose by the State or received from the Federal Government.

Sec. 5. NRS 449.131 is hereby amended to read as follows:

449.131 1. Any authorized member or employee of the Division may enter and inspect any building or premises at any time to secure compliance with or prevent a violation of any provision of NRS 449.029 to 449.245, inclusive ~~H~~, *and section 1 of this act*.

2. The State Fire Marshal or a designee of the State Fire Marshal shall, upon receiving a request from the Division or a written complaint concerning compliance with the plans and requirements to respond to an emergency adopted pursuant to subsection 9 of NRS 449.0302:

(a) Enter and inspect a residential facility for groups; and

(b) Make recommendations regarding the adoption of plans and requirements pursuant to subsection 9 of NRS 449.0302,

➤ to ensure the safety of the residents of the facility in an emergency.

3. The Chief Medical Officer or a designee of the Chief Medical Officer shall enter and inspect at least annually each building or the premises of a residential facility for groups to ensure compliance with standards for health and sanitation.

4. An authorized member or employee of the Division shall enter and inspect any building or premises operated by a residential facility for groups within 72 hours after the Division is notified that a residential facility for groups is operating without a license.



Sec. 6. 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 449.029 to 449.2428, inclusive, *and section 1 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 449.029 to 449.245, inclusive, *and section 1 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 section 1 of this act* and 449.435 to 449.531, inclusive, and chapter 449A of NRS 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.



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 449.220 is hereby amended to read as follows:

11 449.220 1. The Division may bring an action in the name of
12 the State to enjoin any person, state or local government unit or
13 agency thereof from operating or maintaining any facility within the
14 meaning of NRS 449.029 to 449.2428, inclusive ~~H~~, and *section 1*
15 *of this act*:

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

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

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

22 **Sec. 8.** NRS 449.240 is hereby amended to read as follows:

23 449.240 The district attorney of the county in which the facility
24 is located shall, upon application by the Division, institute and
25 conduct the prosecution of any action for violation of any provisions
26 of NRS 449.029 to 449.245, inclusive ~~H~~, and *section 1 of this act*.

27 **Sec. 9.** This act becomes effective:

28 1. Upon passage and approval for the purpose of adopting any
29 regulations and performing any other preparatory administrative
30 tasks that are necessary to carry out the provisions of this act; and

31 2. On January 1, 2020, for all other purposes.

