

ASSEMBLY BILL NO. 232—ASSEMBLYMEN NGUYEN, YEAGER,
MONROE-MORENO, BENITEZ-THOMPSON; CARLTON AND
FRIERSON

MARCH 1, 2019

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes to provisions governing
hospitals. (BDR 40-158)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to hospitals; requiring certain hospitals to
participate as a provider in the Medicare program;
eliminating the designation of general hospitals; and
providing other matters properly relating thereto.

Legislative Counsel's Digest:

Federal law requires a hospital that participates in Medicare to be primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic and therapeutic services or rehabilitation services. (42 U.S.C. § 1395x(e)(1)) Existing federal regulations also require such a hospital that has an emergency medical department to provide certain emergency medical care, regardless of whether the patient is eligible for Medicare benefits or has the ability to pay. (42 C.F.R. § 489.24) Section 2 of this bill requires each hospital, other than a psychiatric, rural or critical access hospital, to participate as a provider for Medicare. Therefore, each such hospital would be required to: (1) be primarily engaged in providing diagnostic and therapeutic services or rehabilitation services to inpatients; and (2) if the hospital has an emergency medical department, provide certain emergency medical care. Section 21 of this bill exempts an existing hospital from those requirements until July 1, 2021. Sections 3-8, 10 and 11 of this bill make conforming changes.

Existing law provides for the designation of a hospital that offers services in at least medical, surgical and obstetric categories as a general hospital. (NRS 449.202) **Section 9** of this bill eliminates this designation. **Sections 1 and 12-20** of this bill make conforming changes to remove references to general hospitals. By removing that designation, certain provisions will apply to all hospitals. Specifically, those provisions concern: (1) the referral of a patient to certain surgical hospitals in which the referring physician has an ownership interest; (2) state assistance to publicly owned hospitals; and (3) the provision of inpatient care to persons with a mental



* A B 2 3 2 R 1 *

23 illness or an intellectual disability and the responsibility to pay for certain care
24 provided to such persons.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 439B.425 is hereby amended to read as
2 follows:

3 439B.425 1. Except as otherwise provided in this section, a
4 practitioner shall not refer a patient, for a service or for goods
5 related to health care, to a health facility, medical laboratory,
6 diagnostic imaging or radiation oncology center or commercial
7 establishment in which the practitioner has a financial interest.

8 2. Subsection 1 does not apply if:

9 (a) The service or goods required by the patient are not
10 otherwise available within a 30-mile radius of the office of the
11 practitioner;

12 (b) The service or goods are provided pursuant to a referral to a
13 practitioner who is participating in the health care plan of a health
14 maintenance organization that has been issued a certificate of
15 authority pursuant to chapter 695C of NRS;

16 (c) The practitioner is a member of a group practice and the
17 referral is made to that group practice;

18 (d) The referral is made to a surgical center for ambulatory
19 patients, as defined in NRS 449.019, that is licensed pursuant to
20 chapter 449 of NRS;

21 (e) The referral is made by:

22 (1) A urologist for lithotripsy services; or

23 (2) A nephrologist for services and supplies for a renal
24 dialysis;

25 (f) The financial interest represents an investment in a
26 corporation that has shareholder equity of more than \$100,000,000,
27 regardless of whether the securities of the corporation are publicly
28 traded; or

29 (g) The referral is made by a physician to a surgical hospital in
30 which the physician has an ownership interest and:

31 (1) The surgical hospital is:

32 (I) Located in a county whose population is less than
33 100,000; and

34 (II) Licensed pursuant to chapter 449 of NRS as a surgical
35 hospital and not as a medical hospital, obstetrical hospital,
36 combined-categories hospital [~~general hospital~~] or center for the
37 treatment of trauma;

38 (2) The physician making the referral:



(I) Is authorized to perform medical services and has staff privileges at the surgical hospital; and

(II) Has disclosed the physician's ownership interest in the surgical hospital to the patient before making the referral;

(3) The ownership interest of the physician making the referral pertains to the surgical hospital in its entirety and is not limited to a department, subdivision or other portion of the hospital;

(4) Every physician who has an ownership interest in the surgical hospital has agreed to treat patients receiving benefits pursuant to Medicaid and Medicare;

(5) The terms of investment of each physician who has an ownership interest in the surgical hospital are not related to the volume or value of any referrals made by that physician;

(6) The payments received by each investor in the surgical hospital as a return on his or her investment are directly proportional to the relative amount of capital invested or shares owned by the investor in the hospital;

(7) None of the investors in the surgical hospital has received any financial assistance from the hospital or any other investor in the hospital for the purpose of investing in the hospital; and

(8) Either:

(I) The governing body of every other hospital that regularly provides surgical services to residents of the county in which the surgical hospital is located has issued its written general consent to the referral by such physicians of patients to that surgical hospital; or

(II) The board of county commissioners of the county in which the surgical hospital is located has issued a written declaration of its reasonable belief that the referral by such physicians of patients to that surgical hospital will not, during the 5-year period immediately following the commencement of such referrals, have a substantial adverse financial effect on any other hospital that regularly provides surgical services to residents of that county.

3. A person who violates the provisions of this section is guilty of a misdemeanor.

4. The provisions of this section do not prohibit a practitioner from owning and using equipment in his or her office solely to provide to his or her patients services or goods related to health care.

5. As used in this section:

(a) "Group practice" means two or more practitioners who organized as a business entity in accordance with the laws of this state to provide services related to health care, if:

(1) Each member of the group practice provides substantially all of the services related to health care that he or she routinely



* A B 2 3 2 R 1 *

provides, including, without limitation, medical care, consultations, diagnoses and treatment, through the joint use of shared offices, facilities, equipment and personnel located at any site of the group practice;

(2) Substantially all of the services related to health care that are provided by the members of the group practice are provided through the group practice; and

(3) No member of the group practice receives compensation based directly on the volume of any services or goods related to health care which are referred to the group practice by that member.

(b) "Patient" means a person who consults with or is examined or interviewed by a practitioner or health facility for purposes of diagnosis or treatment.

(c) "Substantial adverse financial effect" includes, without limitation, a projected decline in the revenue of a hospital as a result of the loss of its surgical business, which is sufficient to cause a deficit in any cash balances, fund balances or retained earnings of the hospital.

Sec. 2. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

A hospital, other than a psychiatric hospital, critical access hospital or rural hospital, shall enter into an agreement with the United States Secretary of Health and Human Services pursuant to 42 U.S.C. § 1395dd to accept payment through Medicare.

Sec. 3. NRS 449.029 is hereby amended to read as follows:

449.029 As used in NRS 449.029 to 449.240, inclusive, *and section 2 of this act*, unless the context otherwise requires, "medical facility" has the meaning ascribed to it in NRS 449.0151 and includes a program of hospice care described in NRS 449.196.

Sec. 4. NRS 449.0301 is hereby amended to read as follows:

449.0301 The provisions of NRS 449.029 to 449.2428, inclusive, *and section 2 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. 5. NRS 449.089 is hereby amended to read as follows:

449.089 1. Each license issued pursuant to NRS 449.029 to 449.2428, inclusive, *and section 2 of this act* expires on December 31 following its issuance and is renewable for 1 year upon reapplication and payment of all fees required pursuant to NRS 449.050 unless the Division finds, after an investigation, that the facility has not:

(a) Satisfactorily complied with the provisions of NRS 449.029 to 449.2428, inclusive, *and section 2 of this act* or the standards and regulations adopted by the Board;

(b) Obtained the approval of the Director of the Department of Health and Human Services before undertaking a project, if such approval is required by NRS 439A.100; or

(c) Conformed to all applicable local zoning regulations.

2. Each reapplication for an agency to provide personal care services 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 psychiatric hospital that provides inpatient services to children, a psychiatric residential treatment facility, 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, a peer support recovery organization, 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, a hospital that provides swing-bed services as described in 42 C.F.R. § 482.58 or, if residential services are provided to children, a medical facility or facility for the treatment of abuse of alcohol or drugs must include, without limitation, a statement that the facility, hospital, agency, program, pool, organization or home is in compliance with the provisions of NRS 449.115 to 449.125, inclusive, and 449.174.

3. Each reapplication for an agency to provide personal care services in the home, a community health worker pool, a facility for intermediate care, a facility for skilled nursing, a facility for the care of adults during the day, a peer support recovery organization, a residential facility for groups or a home for individual residential care must include, without limitation, a statement that the holder of the license to operate, and the administrator or other person in charge and employees of, the facility, agency, pool, organization or home are in compliance with the provisions of NRS 449.093.

Sec. 6. NRS 449.119 is hereby amended to read as follows:

449.119 "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 psychiatric hospital that provides inpatient services to children, a psychiatric residential treatment facility, 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, a hospital that provides swing-bed services as described in 42 C.F.R. § 482.58 or, if residential services are provided to children, a medical facility or facility for the treatment of abuse of alcohol or drugs.

Sec. 7. 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 2 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 2 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 2 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.

↪ 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. 8. 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, facility for the dependent or facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.029 to 449.2428, inclusive, *and section 2 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 \$5,000 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 compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. If the facility fails to pay any administrative penalty imposed 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.

3. The Division may require any facility that violates any provision of NRS 439B.410 or 449.029 to 449.2428, inclusive, *and section 2 of this act*, or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

4. 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 2 of this act*, 449.435 to 449.530, inclusive, and 449.760 and chapter 449A of NRS 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. 9. NRS 449.202 is hereby amended to read as follows:

449.202 ~~[(1)]~~ A hospital which provides only one or two of the following categories of service:

~~[(a)]~~ 1. Medical;

~~[(b)]~~ 2. Surgical;

~~[(c)]~~ 3. Obstetrical; or

~~[(d)]~~ 4. Psychiatric,

➔ shall be designated a medical hospital, surgical hospital, obstetrical hospital or psychiatric hospital or combined-categories hospital, as the case may be.

~~[(2.) When a hospital offers services in medical, surgical and obstetrical categories, as a minimum, it shall be designated a general hospital.]~~



Sec. 10. 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 449.029 to 449.2428, inclusive ~~[]~~, and *section 2 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. 11. NRS 449.240 is hereby amended to read as follows:

449.240 The district attorney of the county in which the facility is located shall, upon application by the Division, institute and conduct the prosecution of any action for violation of any provisions of NRS 449.029 to 449.245, inclusive ~~[]~~, and *section 2 of this act*.

Sec. 12. NRS 449.400 is hereby amended to read as follows:

449.400 1. In order to provide state assistance for construction projects for publicly owned ~~[general]~~ hospitals, hospitals for the chronically ill and impaired, facilities for persons with intellectual disabilities, community mental health facilities, diagnostic or diagnostic and treatment centers, rehabilitation facilities, nursing homes and other facilities financed in part by federal funds in accordance with NRS 449.250 to 449.430, inclusive, and to promote maximum utilization of federal funds available for such projects, there is hereby created in the State Treasury a nonreverting trust fund to be known as the State Public Health Facilities Construction Assistance Fund. Money for the Fund may be provided from time to time by legislative appropriation.

2. The State Public Health Facilities Construction Assistance Fund must be administered by the State Department in accordance with the purposes and provisions of NRS 449.250 to 449.430, inclusive.

Sec. 13. NRS 449.410 is hereby amended to read as follows:

449.410 1. Money in the State Public Health Facilities Construction Assistance Fund must be used to supplement money from the Federal Government and money provided by the sponsor of a project for approved projects for the construction of publicly owned ~~[general]~~ hospitals, hospitals for the chronically ill or impaired, facilities for persons with intellectual disabilities, community mental health facilities, diagnostic or diagnostic and treatment centers, rehabilitation facilities, nursing homes and other facilities financed in part by federal funds pursuant to NRS 449.250 to 449.430, inclusive, and for no other purpose or purposes.



2. Applications for state assistance for construction projects must be submitted to the State Department for consideration in the manner prescribed in NRS 449.250 to 449.430, inclusive, for applications for federal assistance.

3. No project is entitled to receive state assistance unless it is entitled to receive federal assistance.

Sec. 14. NRS 433.334 is hereby amended to read as follows:

433.334 The Division may, by contract with ~~general~~ hospitals or other institutions having adequate facilities in the State of Nevada, provide for inpatient care of consumers with mental illness.

Sec. 15. NRS 433A.680 is hereby amended to read as follows:

433A.680 The expense of diagnostic, medical and surgical services furnished to a consumer admitted to a division facility by a person not on the staff of the facility, whether rendered while the consumer is in a ~~general~~ hospital, an outpatient of a ~~general~~ hospital or treated outside any hospital, must be paid by the consumer, the guardian or relatives responsible pursuant to NRS 433A.610 for the consumer's care. In the case of an indigent consumer or a consumer whose estate is inadequate to pay the expenses, the expenses must be charged to the county from which the admission to the division facility was made, if the consumer had, before admission, been a resident of that county. The expense of such diagnostic, medical and surgical services must not in any case be a charge against or paid by the State of Nevada, except when in the opinion of the administrative officer of the division mental health facility to which the consumer is admitted payment should be made for nonresident indigent consumers and money is authorized pursuant to NRS 433.374 or 433B.230 and the money is authorized in approved budgets.

Sec. 16. NRS 433B.210 is hereby amended to read as follows:

433B.210 The Division may:

1. By contract with ~~general~~ hospitals or other institutions having adequate facilities in this State, provide for inpatient care of consumers with mental illness.

2. Contract with appropriate persons professionally qualified in the field of psychiatric mental health to provide inpatient and outpatient care for children with mental illness when it appears that they can be treated best in that manner.

Sec. 17. NRS 435.085 is hereby amended to read as follows:

435.085 The administrative officer of a division facility may authorize the transfer of a person with an intellectual disability or a person with a developmental disability to a ~~general~~ hospital for necessary diagnostic, medical or surgical services not available within the Division. All expenses incurred under this section must be paid as follows:



1 1. In the case of a person with an intellectual disability or
2 person with a developmental disability who is judicially committed,
3 the expenses must be paid by the person's parents or guardian to
4 the extent of their reasonable financial ability as determined by the
5 Administrator, and the remainder, if any, is a charge upon the
6 county of the last known residence of the person with an intellectual
7 disability or the person with a developmental disability;

8 2. In the case of a person with an intellectual disability or a
9 person with a developmental disability admitted to a division facility
10 pursuant to NRS 435.010, 435.020 and 435.030, the expenses are a
11 charge upon the county from which a certificate was issued pursuant
12 to subsection 2 of NRS 435.030; and

13 3. In the case of a person with an intellectual disability or a
14 person with a developmental disability admitted to a division facility
15 upon voluntary application as provided in NRS 435.081, the
16 expenses must be paid by the parents or guardian to the extent of
17 their reasonable financial ability as determined by the
18 Administrator, and for the remainder, if any, the Administrator shall
19 explore all reasonable alternative sources of payment.

20 **Sec. 18.** NRS 435.455 is hereby amended to read as follows:

21 435.455 The Division may, by contract with ~~general~~ hospitals
22 or other institutions having adequate facilities in the State of
23 Nevada, provide for inpatient care of persons with intellectual
24 disabilities or persons with developmental disabilities.

25 **Sec. 19.** NRS 435.670 is hereby amended to read as follows:

26 435.670 The expense of diagnostic, medical and surgical
27 services furnished to a consumer admitted to a division facility by a
28 person not on the staff of the facility, whether rendered while the
29 consumer is in a ~~general~~ hospital, an outpatient of a ~~general~~
30 hospital or treated outside any hospital, must be paid by the
31 consumer, the guardian or relatives responsible pursuant to NRS
32 435.655 for the consumer's care. In the case of an indigent
33 consumer or a consumer whose estate is inadequate to pay the
34 expenses, the expenses must be charged to the county from which
35 the admission to the division facility was made, if the consumer had,
36 before admission, been a resident of that county. The expense of
37 such diagnostic, medical and surgical services must not in any case
38 be a charge against or paid by the State of Nevada, except when, in
39 the opinion of the administrative officer of the division facility to
40 which the consumer is admitted, payment should be made for
41 nonresident indigent consumers and money is authorized pursuant to
42 NRS 435.475 and the money is authorized in approved budgets.



1 **Sec. 20.** NRS 633.061 is hereby amended to read as follows:
2 633.061 “Hospital internship” means a 1-year internship in a
3 ~~general~~ hospital conforming to the minimum standards for intern
4 training established by the American Osteopathic Association.

5 **Sec. 21.** 1. Notwithstanding the provisions of section 2 of
6 this act, a hospital operating on the effective date of this act that is
7 subject to the requirements of that section is exempt from those
8 requirements with respect to that hospital until July 1, 2021. Any
9 additional facility operated by such a hospital at another location
10 that commences operation after the effective date of this act must
11 comply with the requirements of section 2 of this act.

12 2. A hospital described in subsection 1 shall:

13 (a) Apply to the United States Secretary of Health and Human
14 Services to enter into an agreement required by that section on or
15 before July 1, 2021; and

16 (b) Enter into such an agreement as soon as practicable after that
17 date.

18 3. As used in this section, “hospital” has the meaning ascribed
19 to it in NRS 449.012.

20 **Sec. 22.** The Legislative Counsel shall:

21 1. In preparing the Nevada Revised Statutes, use the authority
22 set forth in subsection 10 of NRS 220.120 to remove any references
23 to the term “general hospital”; and

24 2. In preparing supplements to the Nevada Administrative
25 Code, appropriately remove any references to the term “general
26 hospital.”

27 **Sec. 23.** This act becomes effective upon passage and
28 approval.

