

Amendment No. 254

Assembly Amendment to Assembly Bill No. 252	(BDR 39-656)
Proposed by: Assembly Committee on Health and Human Services	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



ASSEMBLY BILL NO. 252--ASSEMBLYMEN BENITEZ-THOMPSON, CARLTON; ASSEFA, CARRILLO AND WHEELER

MARCH 13, 2019

JOINT SPONSORS: SENATORS KIECKHEFER AND PARKS

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to providers of community-based living arrangement services. (BDR 39-656)

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 mental health; revising the scope of community-based living arrangement services; imposing certain requirements relating to the operation of a provider of community-based living arrangement services; requiring a provider of community-based living arrangement services to reimburse the Division of Public and Behavioral Health of the Department of Health and Human Services for certain overpayments to the provider; ~~requiring an annual financial audit of a contract between the Division and a provider of community-based living arrangement services;~~ revising requirements concerning the issuance or renewal of a certificate to provide community-based living arrangement services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines the term "community-based living arrangement services" to mean flexible, individualized services that are provided in the home, for compensation, to persons with mental illness or persons with developmental disabilities and designed and coordinated to assist such persons in maximizing their independence. (NRS 433.605) Existing law requires a provider of community-based living arrangement services to be certified by the Division of Public and Behavioral Health of the Department of Health and Human Services. (NRS 433.607) Existing law defines the term "supported living arrangement services" to refer to the same type of services provided to persons with intellectual or developmental disabilities. (NRS 435.3315) Existing law requires a provider of supported living arrangement services to be certified by the Aging and Disability Services Division of the Department. (NRS 435.332) **Section 7** of this bill removes the reference to persons with developmental disabilities from the definition of the term "community-based living arrangement services," thereby prohibiting the holder of a certificate to provide such services from serving persons with a primary diagnosis of developmental ~~disabilities~~ disability unless the holder also holds a certificate to provide supported living arrangement services. Section 7.5 authorizes the holder of a

certificate to provide community-based living arrangement services to serve any person with a primary diagnosis of a mental illness, including a person who has a secondary diagnosis other than a mental illness.

Section 2 of this bill requires a person employed by a provider of community-based living arrangement services for the purpose of supervising or providing support to recipients of services to be proficient in the language spoken by a majority of the recipients to whom he or she provides services. **Section 2** also prohibits a child under 18 years of age from residing in a home operated by a provider in which services are provided. **Section 2** also requires a provider of community-based living arrangement services to provide each recipient of services with access to licensed professionals who are qualified to provide supportive and habilitative services. **Section 2** additionally requires a provider of community-based living arrangement services to post prominently in any home operated by the provider in which services are provided a sign with the telephone number for making a complaint to the Division of Public and Behavioral Health.

Section 3 of this bill requires the Division to establish an individualized plan for each recipient of community-based living arrangement services provided pursuant to a contract with the Division. **Sections 3 and 10** of this bill require a provider of community-based living arrangement services to reimburse the Division for any overpayment pursuant to such a contract for a bill submitted to the Division on or after January 1, 2017. **Section 5** of this bill prohibits the Division from renewing the certificate of a provider who has failed to provide such a reimbursement or make certain corrections required by the Division.

~~[Section 4 of this bill requires an annual independent financial audit of each contract between the Division and a provider of community-based living arrangement services. Section 11 of this bill removes the requirement for such audits, effective on October 1, 2023.]~~

Section 8 of this bill requires the State Board of Health to adopt regulations prescribing required training and continuing education for an operator of a provider of community-based living arrangement services and certain employees of such a provider. **Section 8** also requires an applicant for a certificate to take certain actions to ensure that, if the applicant becomes insolvent, recipients of services from the applicant would continue to receive such services for 2 months at the expense of the applicant.

Existing law authorizes the Division to investigate the qualifications of personnel, methods of operation, policies and purposes of an applicant for a certificate. (NRS 433.613) **Section 9** of this bill requires the Division to: (1) conduct such an investigation before issuing a certificate; and (2) as part of the investigation, inspect any home operated by the applicant in which the applicant proposes to provide services.

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

Section 1. Chapter 433 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. 1. Each person employed by a provider of services to supervise or provide support to recipients of services must demonstrate verbal and written proficiency in the language spoken by a majority of the recipients to whom he or she is to provide services.

2. A child under 18 years of age must not reside in a home operated by a provider of services in which services are provided.

3. A provider of services shall:

(a) Provide each recipient of services with access to licensed professionals who are qualified to provide supportive and habilitative services that are appropriate for the recipient; and

(b) Post prominently in any home operated by the provider in which services are provided a sign with the telephone number that may be used to make a complaint to the Division concerning the provider.

1 **Sec. 3. 1. The Division shall establish, for each recipient of services**
2 *whose services are provided pursuant to a contract between the provider and the*
3 *Division, an individualized plan for the provision of services. The individualized*
4 *plan must include, without limitation:*

5 *(a) A description of the case management services that must be provided to*
6 *the recipient and a designation of the entity responsible for providing those*
7 *services; and*

8 *(b) The hours during which the provider of services must provide supervision*
9 *and support to the recipient.*

10 **2. A contract between the Division and a provider of services for the**
11 *provision of services must include a provision requiring the provider to comply*
12 *with an individualized plan for each recipient established pursuant to subsection*
13 *1.*

14 **3. If the Division determines that it has paid the holder of a certificate with**
15 *which the Division has entered into a contract an amount that exceeds the*
16 *amount required by the contract, the holder shall reimburse the amount of the*
17 *overpayment to the Division.*

18 **Sec. 4. ~~The Division shall:~~**

19 ~~**1. Arrange for an annual financial audit by an independent certified public**~~
20 ~~*accountant of each contract between the Division and a provider of services to*~~
21 ~~*determine whether the provider is in compliance with requirements of state law,*~~
22 ~~*the regulations of the Division and the requirements of the contract concerning*~~
23 ~~*billing and financial documentation; and*~~

24 ~~**2. Submit the results of any such audit to the Director of the Legislative**~~
25 ~~*Counsel Bureau for transmittal to the Legislative Auditor and the Legislature.*~~
26 **(Deleted by amendment.)**

27 **Sec. 5. The Division shall not renew a certificate if:**

28 **1. The provider of services has refused or failed to reimburse any**
29 *overpayment for services as required pursuant to subsection 3 of section 3 of this*
30 *act; or*

31 **2. The holder of the certificate has failed to correct any practice required by**
32 *the Division to comply with state law or regulations or the requirements of a*
33 *contract between the holder and the Division.*

34 **Sec. 6. NRS 433.601 is hereby amended to read as follows:**

35 433.601 As used in NRS 433.601 to 433.621, inclusive, **and sections 2 to 5,**
36 **inclusive, of this act,** unless the context otherwise requires, the words and terms
37 defined in NRS 433.603 and 433.605 have the meanings ascribed to them in those
38 sections.

39 **Sec. 7. NRS 433.605 is hereby amended to read as follows:**

40 433.605 “Community-based living arrangement services” or “services” means
41 flexible, individualized services, including, without limitation, training and
42 habilitation services, that are:

43 1. Provided in the home, for compensation, to persons with mental illness ~~for~~
44 ~~persons with developmental disabilities~~ who are served by the Division or any
45 other entity; and

46 2. Designed and coordinated to assist such persons in maximizing their
47 independence.

48 **Sec. 7.5. NRS 433.607 is hereby amended to read as follows:**

49 433.607 1. Except as otherwise provided in subsection 2, a person,
50 government or governmental agency shall not provide services without first
51 obtaining a certificate from the Division.

2. A natural person who has not been issued a certificate but is employed by the holder of a certificate may provide services within the scope of his or her employment by the holder.

3. The holder of a certificate to provide community-based living arrangement services may provide such services to any person with a primary diagnosis of a mental illness, including, without limitation, such a person who has a secondary diagnosis other than a mental illness. Such a secondary diagnosis may include, without limitation, a secondary diagnosis of an intellectual disability or developmental disability.

Sec. 8. NRS 433.609 is hereby amended to read as follows:

433.609 1. The State Board of Health shall adopt regulations governing services, including, without limitation, regulations that set forth:

(a) Standards for the provision of quality care by a provider of services . ~~{ }~~

(b) Requirements for the issuance and renewal of a certificate . ~~{ and }~~ *Such regulations must:*

(1) Except as otherwise provided in subparagraph (2), require a natural person responsible for the operation of a provider of services and each employee of a provider of services who supervises or provides support to recipients of services to complete training concerning the provision of services to persons with mental illness and continuing education concerning the particular population served by the provider;

(2) Exempt a person licensed or certified pursuant to title 54 of NRS from the requirements prescribed pursuant to subparagraph (1) if the Board determines that the person is required to receive training and continuing education substantially equivalent to that prescribed pursuant to that subparagraph;

(3) Require a natural person responsible for the operation of a provider of services to receive training concerning the provisions of title 53 of NRS applicable to the provision of services; and

(4) Require an applicant for a certificate to post a surety bond in an amount equal to the operating expenses of the applicant for 2 months, place that amount in escrow or take another action prescribed by the Division to ensure that, if the applicant becomes insolvent, recipients of services from the applicant may continue to receive services for 2 months at the expense of the applicant.

(c) The rights of consumers of services, in addition to those prescribed in this chapter, including, without limitation, the right of a consumer to file a complaint against a provider of services and the procedure for filing such a complaint.

2. The State Board of Health may, by regulation, prescribe a fee for:

(a) The issuance of a certificate; and

(b) The renewal of a certificate.

3. Any fee prescribed pursuant to subsection 2 must be calculated to produce the revenue estimated to cover the costs related to the issuance and renewal of certificates, but in no case may the fee for the issuance or renewal of a certificate exceed the actual cost to the Division of issuing or renewing the certificate, as applicable.

Sec. 9. NRS 433.613 is hereby amended to read as follows:

433.613 1. The Division ~~{ may: }~~

~~1. Upon receipt of an application for }~~ *shall, before issuing* a certificate, conduct an investigation into the qualifications of the personnel, methods of operation, policies and purposes of the applicant . ~~{ }~~ *Such an investigation must include, without limitation, an inspection of any home operated by the applicant in which the applicant proposes to provide services.*

2. *The Division may:*

1 (a) Upon receipt of a complaint against a provider of services, except for a
2 complaint concerning the cost of services, conduct an investigation into the
3 qualifications of the personnel, methods of operation, policies, procedures and
4 records of the provider of services;

5 ~~{3-}~~ (b) Employ such professional, technical and clerical assistance as it deems
6 necessary to carry out the provisions of NRS 433.601 to 433.621, inclusive ~~{-}~~, and
7 *sections 2 to 5, inclusive, of this act*; and

8 ~~{4-}~~ (c) Enter into such agreements with public and private agencies as it
9 deems necessary for the provision of services.

10 **Sec. 10.** 1. The provisions of subsection 3 of section 3 of this act and
11 section 5 of this act apply retroactively to any overpayment by the Division of
12 Public and Behavioral Health of the Department of Health and Human Services
13 pursuant to any bill submitted to the Division by a provider of community-based
14 living arrangement services on or after January 1, 2017.

15 2. As used in this section, "community-based living arrangement services"
16 has the meaning ascribed to it in NRS 433.605, as that section existed on September
17 30, 2019.

18 **Sec. 11.** ~~{Section 4}~~ 1. This section and sections 7 and 7.5 of this act
19 ~~expires by limitation on October 1, 2023.~~ become effective upon passage and
20 approval.

21 2. Sections 1 to 6, inclusive, 8, 9 and 10 of this act become effective on
22 October 1, 2019.