

ASSEMBLY BILL NO. 181—ASSEMBLYWOMAN PETERS

FEBRUARY 26, 2021

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to mental health.
(BDR 40-522)

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

CONTAINS UNFUNDED MANDATE (§§ 7-9)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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; providing for the reporting of certain information by certain health-related facilities relating to suicide; requiring certain insurers and other organizations providing health coverage to adhere to certain provisions of federal law; requiring certain insurers and other organizations providing health coverage to submit a report demonstrating mental health parity and addiction equity compliance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the licensure and regulation of medical facilities, facilities for the dependent and certain other health-related facilities. (NRS 449.029-449.240) **Section 1** of this bill requires the State Board of Health to adopt regulations requiring certain medical facilities and facilities for the dependent to report information relating to suicide to the Chief Medical Officer or his or her designee. **Sections 2 and 3** of this bill make conforming changes to indicate the placement of **section 1** in the Nevada Revised Statutes. **Sections 4-6** of this bill authorize certain actions to be taken against a facility that fails to report the required information.

The federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 prohibits group health plans and health insurance issuers that provide benefits for mental health or substance use disorders from imposing less favorable benefit limitations on those benefits than on medical and surgical benefits. (Pub. L. No. 100-343, 122 Stat. 3765) Existing state law requires certain insurers or other organizations providing health coverage to comply with the Act. (NRS 687B.404) **Sections 7-9** of this bill additionally require health insurers,



including state and local governmental entities that provide health coverage for their employees, to comply with the Act. **Sections 7-9** also require each insurer or other organization subject to those requirements to submit to the Commissioner of Insurance a report containing certain information that demonstrates compliance with the Act.

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:

The Board shall adopt regulations requiring medical facilities, facilities for the dependent and facilities which are required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed to report information relating to suicide to the Chief Medical Officer or his or her designee. The regulations must prescribe:

1. The facilities that are required to make reports;

2. The information that must be reported; and

3. The time within which such a report must be made.

Sec. 2. NRS 449.029 is hereby amended to read as follows:

449.029 As used in NRS 449.029 to 449.240, inclusive, *and section 1 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. 3. 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. 4. 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.

(g) Violation of the provisions of NRS 458.112.

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. 5. 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 1 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 1 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 1 of this act*, 449.435 to 449.531, inclusive, 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. 6. 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 ~~H~~, *and section 1 of this act*.

Sec. 7. NRS 287.010 is hereby amended to read as follows:

287.010 1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada may:

(a) Adopt and carry into effect a system of group life, accident or health insurance, or any combination thereof, for the benefit of its officers and employees, and the dependents of officers and employees who elect to accept the insurance and who, where necessary, have authorized the governing body to make deductions from their compensation for the payment of premiums on the insurance.

(b) Purchase group policies of life, accident or health insurance, or any combination thereof, for the benefit of such officers and employees, and the dependents of such officers and employees, as have authorized the purchase, from insurance companies authorized to transact the business of such insurance in the State of Nevada, and, where necessary, deduct from the compensation of officers and employees the premiums upon insurance and pay the deductions upon the premiums.

(c) Provide group life, accident or health coverage through a self-insurance reserve fund and, where necessary, deduct contributions to the maintenance of the fund from the compensation of officers and employees and pay the deductions into the fund. The money accumulated for this purpose through deductions from the compensation of officers and employees and contributions of the governing body must be maintained as an internal service fund as defined by NRS 354.543. The money must be deposited in a state or national bank or credit union authorized to transact business in the



1 State of Nevada. Any independent administrator of a fund created
2 under this section is subject to the licensing requirements of chapter
3 683A of NRS, and must be a resident of this State. Any contract
4 with an independent administrator must be approved by the
5 Commissioner of Insurance as to the reasonableness of
6 administrative charges in relation to contributions collected and
7 benefits provided. The provisions of NRS **687B.404**, 687B.408,
8 689B.030 to 689B.050, inclusive, 689B.287 and 689B.500 apply to
9 coverage provided pursuant to this paragraph, except that the
10 provisions of NRS 689B.0378, 689B.03785 and 689B.500 only
11 apply to coverage for active officers and employees of the
12 governing body, or the dependents of such officers and employees.

13 (d) Defray part or all of the cost of maintenance of a self-
14 insurance fund or of the premiums upon insurance. The money for
15 contributions must be budgeted for in accordance with the laws
16 governing the county, school district, municipal corporation,
17 political subdivision, public corporation or other local governmental
18 agency of the State of Nevada.

19 2. If a school district offers group insurance to its officers and
20 employees pursuant to this section, members of the board of trustees
21 of the school district must not be excluded from participating in the
22 group insurance. If the amount of the deductions from compensation
23 required to pay for the group insurance exceeds the compensation to
24 which a trustee is entitled, the difference must be paid by the trustee.

25 3. In any county in which a legal services organization exists,
26 the governing body of the county, or of any school district,
27 municipal corporation, political subdivision, public corporation or
28 other local governmental agency of the State of Nevada in the
29 county, may enter into a contract with the legal services
30 organization pursuant to which the officers and employees of the
31 legal services organization, and the dependents of those officers and
32 employees, are eligible for any life, accident or health insurance
33 provided pursuant to this section to the officers and employees, and
34 the dependents of the officers and employees, of the county, school
35 district, municipal corporation, political subdivision, public
36 corporation or other local governmental agency.

37 4. If a contract is entered into pursuant to subsection 3, the
38 officers and employees of the legal services organization:

39 (a) Shall be deemed, solely for the purposes of this section, to be
40 officers and employees of the county, school district, municipal
41 corporation, political subdivision, public corporation or other local
42 governmental agency with which the legal services organization has
43 contracted; and



(b) Must be required by the contract to pay the premiums or contributions for all insurance which they elect to accept or of which they authorize the purchase.

5. A contract that is entered into pursuant to subsection 3:

(a) Must be submitted to the Commissioner of Insurance for approval not less than 30 days before the date on which the contract is to become effective.

(b) Does not become effective unless approved by the Commissioner.

(c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.

6. As used in this section, "legal services organization" means an organization that operates a program for legal aid and receives money pursuant to NRS 19.031.

Sec. 8. NRS 287.04335 is hereby amended to read as follows:

287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS **687B.404**, 687B.409, 689B.255, 695G.150, 695G.155, 695G.160, 695G.162, 695G.164, 695G.1645, 695G.1665, 695G.167, 695G.170 to 695G.174, inclusive, 695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive, and 695G.405, in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.

Sec. 9. NRS 687B.404 is hereby amended to read as follows:

687B.404 **1.** An insurer or other organization providing health coverage pursuant to chapter **287, 689A**, 689B, **689C**, 695A, 695B, 695C, ~~695F~~ **or 695G** of NRS, **including, without limitation, a health maintenance organization or managed care organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid,** shall ~~comply with~~ **adhere to** the **applicable** provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, Public Law 110-343, Division C, Title V, Subtitle B, and any federal regulations issued pursuant thereto ~~H~~, **regardless of whether the insurer or other organization is actually subject to those provisions.**

2. On or before July 1 of each year, an insurer or other organization providing health coverage described in subsection 1 shall submit to the Commissioner a report which includes, for each health benefit plan under which the insurer or organization provides coverage to residents of this State:

(a) A description of the process used to develop or select the criteria for determining whether services or procedures are medically necessary with regard to:

(1) Mental health or addiction benefits; and



(2) *Medical and surgical benefits;*

(b) *Identification of any nonquantitative treatment limitations that apply to mental health or addiction benefits or medical and surgical benefits within each classification of benefits;*

(c) *A description of the factors used to determine whether a nonquantitative treatment limitation will apply to a benefit and any factors that were considered but rejected;*

(d) *A description of the specific evidentiary standards used to establish the factors described in paragraph (c) and any evidence relied upon in designing each nonquantitative treatment limitation;*

(e) *A description of the comparative analyses, including, without limitation, the results of the analyses, performed to determine that:*

(1) *The process and strategies used to design and apply each nonquantitative treatment limitation for mental health or addiction benefits are comparable to, and are applied no more stringently than, the processes and strategies used to design and apply each nonquantitative treatment limitation for medical and surgical benefits; and*

(2) *Each nonquantitative treatment limitation for mental health or addiction benefits is, in practice, applied comparably to, and no more stringently than, each nonquantitative treatment limitation for medical and surgical benefits; and*

(f) *Disclose the specific findings and conclusions reached by the insurer or other organization providing health coverage as a result of the analyses described in paragraph (e) indicating that the insurer or other organization is in compliance with the requirements of subsection 1.*

3. *As used in this section:*

(a) *“Health benefit plan” means a policy, contract, certificate or agreement offered or issued by an insurer or other organization described in subsection 1 to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services.*

(b) *“Medically necessary” has the meaning ascribed to it in NRS 695G.055.*

(c) *“Nonquantitative treatment limitation” means a treatment limitation, as defined in 45 C.F.R. § 146.136, which is not expressed numerically.*

Sec. 10. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 11. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 10, inclusive, of this act become effective:



- 1 (a) Upon passage and approval for the purposes of adopting any
2 regulations and performing any other preparatory administrative
3 tasks that are necessary to carry out the provisions of this act; and
4 (b) On January 1, 2022, for all other purposes.

