

ASSEMBLY BILL NO. 11—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE PATIENT PROTECTION COMMISSION)

PREFILED NOVEMBER 16, 2022

Referred to Committee on Health and Human Services

SUMMARY—Prohibits certain hospitals from employing a
physician. (BDR 40-382)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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; prohibiting a hospital or psychiatric
hospital from employing a physician under certain
circumstances; providing penalties for a violation of such
prohibition; and providing other matters properly relating
thereto.

Legislative Counsel's Digest:

Existing law prescribes certain requirements governing the staffing of hospitals,
psychiatric hospitals and certain other health care facilities. (NRS 449.241-
449.2428) In 2010, the Attorney General issued an opinion explaining that, while it
is the longstanding practice in Nevada that a physician generally works as a
contractor for, rather than an employee of, a hospital, there is no provision of law
prohibiting a hospital from employing a physician. (Att'y Gen. Op. 2010-04
(March 5, 2010)) **Section 1** of this bill expressly prohibits a hospital or psychiatric
hospital from employing a physician for the purpose of practicing medicine,
homeopathic medicine or osteopathic medicine except where expressly authorized
by law.

Existing law authorizes a county hospital or hospital district, a private nonprofit
medical school or a nonprofit medical research institution to employ a physician
under certain circumstances. (NRS 450.180, 450.640, 630.365) **Section 1**
additionally authorizes a hospital or psychiatric hospital to employ a physician who
is participating in certain graduate programs.

Existing law exempts a medical facility from certain requirements of existing
law relating to the licensing and regulation of medical facilities if the facility: (1) is
conducted by and for the adherents of any church or religious denomination for
the purpose of providing care and treatment in accordance with the practices of the
religion of the church or denomination; or (2) is operated and maintained by the



United States Government or an agency thereof. (NRS 449.0301) **Section 2** of this bill exempts these facilities from the provisions of **section 1**.

Existing law authorizes certain penalties to be imposed against certain medical facilities that violate certain laws and regulations governing the operation of such medical facilities. (NRS 449.160, 449.163, 449.220, 449.240) **Sections 3 and 4** of this bill apply these same penalties to a hospital or psychiatric hospital that violates **section 1**. Specifically: (1) **section 3** of this bill authorizes the Division of Public and Behavioral Health of the Department of Health and Human Services to suspend or revoke the license of a hospital or psychiatric hospital that violates **section 1**; and (2) **section 4** authorizes the Division to impose certain other penalties on a hospital or psychiatric hospital that violates **section 1**, including, without limitation, the imposition of an administrative penalty of not more than \$5,000 per day for each violation, together with interest at a rate not to exceed 10 percent per year.

Sections 5-8 of this bill make conforming changes to indicate the proper placement of **section 1** in the Nevada Revised Statutes.

Section 10 of this bill makes this bill effective upon the passage of the bill by the Legislature and approval of the bill by the Governor. **Section 9** of this bill provides that **section 1** does not apply to any contract existing on the date on which this bill becomes effective but does apply to any renewal of such a contract.

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. Except as otherwise provided in subsection 2, NRS 450.180 and 630.365 or any other provision of law, a hospital or psychiatric hospital shall not employ as an employee a physician for the purpose of engaging in the practice of medicine, homeopathic medicine or osteopathic medicine.

2. A hospital or psychiatric hospital may employ as an employee a physician who is participating in a graduate program approved by the Accreditation Council for Graduate Medical Education, or its successor organization, for the purpose of engaging in the practice of medicine, homeopathic medicine or osteopathic medicine.

3. As used in this section:

(a) "Homeopathic medicine" has the meaning ascribed to it in NRS 630A.040.

(b) "Osteopathic medicine" has the meaning ascribed to it in NRS 633.081.

(c) "Practice of medicine" has the meaning ascribed to it in NRS 630.020.

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



1 facilities for the care and treatment of the sick who depend solely
2 upon spiritual means through prayer for healing in the practice of
3 the religion of the church or denomination, except that such a
4 facility shall comply with all regulations relative to sanitation and
5 safety applicable to other facilities of a similar category.

6 2. Foster homes as defined in NRS 424.014.

7 3. Any medical facility, facility for the dependent or facility
8 which is otherwise required by the regulations adopted by the Board
9 pursuant to NRS 449.0303 to be licensed that is operated and
10 maintained by the United States Government or an agency thereof.

11 **Sec. 3.** NRS 449.160 is hereby amended to read as follows:

12 449.160 1. The Division may deny an application for a
13 license or may suspend or revoke any license issued under the
14 provisions of NRS 449.029 to 449.2428, inclusive, **and section 1 of**
15 **this act** upon any of the following grounds:

16 (a) Violation by the applicant or the licensee of any of the
17 provisions of NRS 439B.410 or 449.029 to 449.245, inclusive, **and**
18 **section 1 of this act** or of any other law of this State or of the
19 standards, rules and regulations adopted thereunder.

20 (b) Aiding, abetting or permitting the commission of any illegal
21 act.

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

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

27 (e) Failure of the applicant to obtain written approval from the
28 Director of the Department of Health and Human Services as
29 required by NRS 439A.100 or as provided in any regulation adopted
30 pursuant to NRS 449.001 to 449.430, inclusive, **and section 1 of**
31 **this act** and 449.435 to 449.531, inclusive, and chapter 449A of
32 NRS if such approval is required.

33 (f) Failure to comply with the provisions of NRS 441A.315 and
34 any regulations adopted pursuant thereto or NRS 449.2486.

35 (g) Violation of the provisions of NRS 458.112.

36 2. In addition to the provisions of subsection 1, the Division
37 may revoke a license to operate a facility for the dependent if, with
38 respect to that facility, the licensee that operates the facility, or an
39 agent or employee of the licensee:

40 (a) Is convicted of violating any of the provisions of
41 NRS 202.470;

42 (b) Is ordered to but fails to abate a nuisance pursuant to NRS
43 244.360, 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. 4. 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. 5. 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 **H**, **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. 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**.



1 **Sec. 7.** NRS 449.241 is hereby amended to read as follows:
2 449.241 As used in NRS 449.241 to 449.2428, inclusive, *and*
3 *section 1 of this act*, unless the context otherwise requires, the
4 words and terms defined in NRS 449.2413 to 449.2418, inclusive,
5 have the meanings ascribed to them in those sections.

6 **Sec. 8.** NRS 654.190 is hereby amended to read as follows:
7 654.190 1. The Board may, after notice and an opportunity
8 for a hearing as required by law, impose an administrative fine of
9 not more than \$10,000 for each violation on, recover reasonable
10 investigative fees and costs incurred from, suspend, revoke, deny
11 the issuance or renewal of or place conditions on the license of, and
12 place on probation or impose any combination of the foregoing on
13 any licensee who:

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

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

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

19 (d) Aids or abets any person in the violation of any of the
20 provisions of NRS 449.029 to 449.2428, inclusive, *and section 1 of*
21 *this act*, as those provisions pertain to a facility for skilled nursing,
22 facility for intermediate care or residential facility for groups.

23 (e) Violates any regulation of the Board prescribing additional
24 standards of conduct for licensees, including, without limitation, a
25 code of ethics.

26 (f) Engages in conduct that violates the trust of a patient or
27 resident or exploits the relationship between the licensee and the
28 patient or resident for the financial or other gain of the licensee.

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

33 3. The Board may compel the attendance of witnesses or the
34 production of documents or objects by subpoena. The Board may
35 adopt regulations that set forth a procedure pursuant to which the
36 Chair of the Board may issue subpoenas on behalf of the Board.
37 Any person who is subpoenaed pursuant to this subsection may
38 request the Board to modify the terms of the subpoena or grant
39 additional time for compliance.

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

42 5. The expiration of a license by operation of law or by order
43 or decision of the Board or a court, or the voluntary surrender of a
44 license, does not deprive the Board of jurisdiction to proceed with



1 any investigation of, or action or disciplinary proceeding against, the
2 licensee or to render a decision suspending or revoking the license.

3 **Sec. 9.** The provisions of section 1 of this act do not apply to
4 any contract existing on the effective date of this act between a
5 hospital or psychiatric hospital, as defined in NRS 449.2414, and a
6 physician, but apply to any renewal of such a contract.

7 **Sec. 10.** This act becomes effective upon passage and
8 approval.

