

Amendment No. 189

Assembly Amendment to Assembly Bill No. 338	(BDR 38-591)
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.

DP/AAK



Date: 4/18/2023

A.B. No. 338—Revises provisions governing health care. (BDR 38-591)



ASSEMBLY BILL NO. 338—ASSEMBLYWOMAN PETERS

MARCH 20, 2023

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing health care. (BDR 38-591)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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 Medicaid; requiring the State Plan for Medicaid to provide coverage of ~~part~~ creative arts therapy services to the extent authorized by federal law; requiring the Department of Health and Human Services to apply for a waiver or an amendment of the State Plan to receive federal funding for coverage of ~~part~~ creative arts therapy services; requiring any person who wishes to provide ~~part~~ creative arts therapy services to a recipient of Medicaid to enroll with the Division of Health Care Financing and Policy of the Department; requiring an enrolled ~~part~~ creative arts therapist to report the abuse of certain persons; authorizing the expenditure of funds in the Nevada Cultural Account for certain purposes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Department of Health and Human Services to develop and administer the State Plan for Medicaid, which must include specific medical services required to be provided to recipients of Medicaid. (NRS 422.063, 422.270) Existing law requires: (1) the Director of the Department to include in the State Plan a requirement that the State pay the nonfederal share of expenditures for certain medical services; and (2) the Department to apply to the United States Department of Health and Human Services for a waiver of certain provisions of federal law or an amendment of the State Plan to authorize the receipt of federal funding to provide certain medical services to recipients of Medicaid. (NRS 422.270-422.27495) **Section 1** of this bill requires the Director to include in the State Plan a requirement that the State pay certain costs for ~~part~~ creative arts therapy provided to Medicaid recipients. **Section 1** also requires the Department to apply for a waiver of federal Medicaid requirements or request to amend the State Plan to receive federal funding to provide coverage of ~~part~~ creative arts therapy. Finally, **section 1** requires a person who wishes to provide ~~part~~ creative arts therapy services to a recipient of Medicaid to enroll with the Division of Health Care Financing and Policy of the Department. **Section 4** of this bill makes a conforming change by including the duties listed in **section 1** among the duties the Director of the Department is required to fulfill.

Existing law requires certain persons in their professional or occupational capacity to report the suspected abuse, neglect, exploitation, isolation or abandonment of older or

vulnerable persons or the suspected abuse or neglect of a child. (NRS 200.5093, 432B.220) Under existing law, a person who is required to make such a report but knowingly and willfully fails to do so is guilty of: (1) a misdemeanor for a first violation of failing to make such a report concerning a child or a gross misdemeanor for each subsequent violation; or (2) a misdemeanor for failing to make such a report concerning an older or vulnerable person. (NRS 200.5093, 432B.240) Sections 2 and 3 of this bill expand these reporting requirements to an enrolled ~~art~~ creative arts therapist.

Existing law creates the Nevada Cultural Account in the State General Fund to provide resources and support for organizations, projects and activities relating to the arts and humanities in this State. (NRS 233C.095, 233C.096) Section 4.5 of this bill authorizes certain funds in the Account to be expended to support programs and projects to improve health outcomes through the arts and humanities.

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

Section 1. Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director shall, to the extent authorized by federal law, include in the State Plan for Medicaid a requirement that the State pay the nonfederal share of expenditures incurred for ~~art~~ creative arts therapy provided by an enrolled ~~art~~ creative arts therapist.

2. The Department shall apply to the Secretary of Health and Human Services for a waiver granted pursuant to 42 U.S.C. § 1315 or apply for an amendment of the State Plan for Medicaid that authorizes the Department to receive federal funding to include in the State Plan for Medicaid coverage of ~~art~~ creative arts therapy provided by an enrolled ~~art~~ creative arts therapist. The Department shall fully cooperate in good faith with the Federal Government during the application process to satisfy the requirements of the Federal Government for obtaining a waiver or amendment pursuant to this section.

3. A person who wishes to receive reimbursement through the Medicaid program for ~~art~~ creative arts therapy provided to a recipient of Medicaid must submit to the Division:

(a) An application for enrollment in the form prescribed by the Division; and

(b) Proof that he or she possesses the required training and qualifications prescribed by the Division pursuant to subsection 4.

4. The Division shall prescribe the required training and qualifications for enrollment pursuant to subsection 3 to receive reimbursement through Medicaid for ~~art~~ creative arts therapy.

5. As used in this section:

(a) ~~Art~~ "Creative arts therapy" means the clinical use of ~~art~~ artistic interventions to accomplish individualized goals within a therapeutic relationship by a professional who has completed ~~art~~ an accredited program for art therapy ~~art~~ drama therapy, dance therapy or music therapy.

(b) "Enrolled ~~art~~ creative arts therapist" means a person who is enrolled with the Division pursuant to subsection 3 to receive reimbursement through Medicaid for ~~art~~ creative arts therapy.

Sec. 2. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

1 (a) Except as otherwise provided in subsection 2, report the abuse or neglect of
2 the child to an agency which provides child welfare services or to a law
3 enforcement agency; and

4 (b) Make such a report as soon as reasonably practicable but not later than 24
5 hours after the person knows or has reasonable cause to believe that the child has
6 been abused or neglected.

7 2. If a person who is required to make a report pursuant to subsection 1 knows
8 or has reasonable cause to believe that the abuse or neglect of the child involves an
9 act or omission of:

10 (a) A person directly responsible or serving as a volunteer for or an employee
11 of a public or private home, institution or facility where the child is receiving child
12 care outside of the home for a portion of the day, the person shall make the report to
13 a law enforcement agency.

14 (b) An agency which provides child welfare services or a law enforcement
15 agency, the person shall make the report to an agency other than the one alleged to
16 have committed the act or omission, and the investigation of the abuse or neglect of
17 the child must be made by an agency other than the one alleged to have committed
18 the act or omission.

19 3. Any person who is described in paragraph (a) of subsection 4 who delivers
20 or provides medical services to a newborn infant and who, in his or her professional
21 or occupational capacity, knows or has reasonable cause to believe that the
22 newborn infant has been affected by a fetal alcohol spectrum disorder or prenatal
23 substance use disorder or has withdrawal symptoms resulting from prenatal
24 substance exposure shall, as soon as reasonably practicable but not later than 24
25 hours after the person knows or has reasonable cause to believe that the newborn
26 infant is so affected or has such symptoms, notify an agency which provides child
27 welfare services of the condition of the infant and refer each person who is
28 responsible for the welfare of the infant to an agency which provides child welfare
29 services for appropriate counseling, training or other services. A notification and
30 referral to an agency which provides child welfare services pursuant to this
31 subsection shall not be construed to require prosecution for any illegal action.

32 4. A report must be made pursuant to subsection 1 by the following persons:

33 (a) A person providing services licensed or certified in this State pursuant to,
34 without limitation, chapter 450B, 630, 630A, 631, 632, 633, 634, 634A, 635, 636,
35 637, 637B, 639, 640, 640A, 640B, 640C, 640D, 640E, 641, 641A, 641B, 641C,
36 641D or 653 of NRS.

37 (b) Any personnel of a medical facility licensed pursuant to chapter 449 of
38 NRS who are engaged in the admission, examination, care or treatment of persons
39 or an administrator, manager or other person in charge of such a medical facility
40 upon notification of suspected abuse or neglect of a child by a member of the staff
41 of the medical facility.

42 (c) A coroner.

43 (d) A member of the clergy, practitioner of Christian Science or religious
44 healer, unless the person has acquired the knowledge of the abuse or neglect from
45 the offender during a confession.

46 (e) A person employed by a public school or private school and any person
47 who serves as a volunteer at such a school.

48 (f) Any person who maintains or is employed by a facility or establishment that
49 provides care for children, children's camp or other public or private facility,
50 institution or agency furnishing care to a child.

51 (g) Any person licensed pursuant to chapter 424 of NRS to conduct a foster
52 home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) Except as otherwise provided in NRS 432B.225, an attorney.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for a youth shelter. As used in this paragraph, "youth shelter" has the meaning ascribed to it in NRS 244.427.

(l) Any adult person who is employed by an entity that provides organized activities for children, including, without limitation, a person who is employed by a school district or public school.

(m) Any person who is enrolled with the Division of Health Care Financing and Policy of the Department of Health and Human Services to provide ~~doula~~:

(1) ~~Doula~~ services to recipients of Medicaid pursuant to NRS 422.27177 ~~§~~; or

(2) ~~Art~~ Creative arts therapy services to recipients of Medicaid pursuant to section 1 of this act.

(n) A peer recovery support specialist, as defined in NRS 433.627, or peer recovery support specialist supervisor, as defined in NRS 433.629.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and the appropriate medical examiner or coroner of the report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner or coroner who is notified of a report pursuant to this subsection shall investigate the report and submit his or her written findings to the appropriate agency which provides child welfare services, the appropriate district attorney and a law enforcement agency. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

7. The agency, board, bureau, commission, department, division or political subdivision of the State responsible for the licensure, certification or endorsement of a person who is described in subsection 4 and who is required in his or her professional or occupational capacity to be licensed, certified or endorsed in this State shall, at the time of initial licensure, certification or endorsement:

(a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to this section;

(b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to this section; and

(c) Maintain a copy of the written acknowledgment or electronic record for as long as the person is licensed, certified or endorsed in this State.

8. The employer of a person who is described in subsection 4 and who is not required in his or her professional or occupational capacity to be licensed, certified or endorsed in this State must, upon initial employment of the person:

(a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to this section;

(b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to this section; and

1 (c) Maintain a copy of the written acknowledgment or electronic record for as
2 long as the person is employed by the employer.

3 9. Before a person may serve as a volunteer at a public school or private
4 school, the school must:

5 (a) Inform the person, in writing or by electronic communication, of his or her
6 duty as a mandatory reporter pursuant to this section and NRS 392.303;

7 (b) Obtain a written acknowledgment or electronic record from the person that
8 he or she has been informed of his or her duty pursuant to this section and NRS
9 392.303; and

10 (c) Maintain a copy of the written acknowledgment or electronic record for as
11 long as the person serves as a volunteer at the school.

12 10. As used in this section:

13 (a) "Private school" has the meaning ascribed to it in NRS 394.103.

14 (b) "Public school" has the meaning ascribed to it in NRS 385.007.

15 **Sec. 3.** NRS 200.5093 is hereby amended to read as follows:

16 200.5093 1. Any person who is described in subsection 4 and who, in a
17 professional or occupational capacity, knows or has reasonable cause to believe that
18 an older person or vulnerable person has been abused, neglected, exploited, isolated
19 or abandoned shall:

20 (a) Except as otherwise provided in subsection 2, report the abuse, neglect,
21 exploitation, isolation or abandonment of the older person or vulnerable person to:

22 (1) The local office of the Aging and Disability Services Division of the
23 Department of Health and Human Services;

24 (2) A police department or sheriff's office; or

25 (3) A toll-free telephone service designated by the Aging and Disability
26 Services Division of the Department of Health and Human Services; and

27 (b) Make such a report as soon as reasonably practicable but not later than 24
28 hours after the person knows or has reasonable cause to believe that the older
29 person or vulnerable person has been abused, neglected, exploited, isolated or
30 abandoned.

31 2. If a person who is required to make a report pursuant to subsection 1 knows
32 or has reasonable cause to believe that the abuse, neglect, exploitation, isolation or
33 abandonment of the older person or vulnerable person involves an act or omission
34 of the Aging and Disability Services Division, another division of the Department
35 of Health and Human Services or a law enforcement agency, the person shall make
36 the report to an agency other than the one alleged to have committed the act or
37 omission.

38 3. Each agency, after reducing a report to writing, shall forward a copy of the
39 report to the Aging and Disability Services Division of the Department of Health
40 and Human Services and the Unit for the Investigation and Prosecution of Crimes.

41 4. A report must be made pursuant to subsection 1 by the following persons:

42 (a) Every physician, dentist, dental hygienist, chiropractic physician,
43 optometrist, podiatric physician, medical examiner, resident, intern, professional or
44 practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS,
45 perfusionist, psychiatrist, psychologist, marriage and family therapist, clinical
46 professional counselor, clinical alcohol and drug counselor, alcohol and drug
47 counselor, music therapist, athletic trainer, driver of an ambulance, paramedic,
48 licensed dietitian, holder of a license or a limited license issued under the
49 provisions of chapter 653 of NRS, behavior analyst, assistant behavior analyst,
50 registered behavior technician, peer recovery support specialist, as defined in NRS
51 433.627, peer recovery support specialist supervisor, as defined in NRS 433.629, or
52 other person providing medical services licensed or certified to practice in this

1 State, who examines, attends or treats an older person or vulnerable person who
2 appears to have been abused, neglected, exploited, isolated or abandoned.

3 (b) Any personnel of a hospital or similar institution engaged in the admission,
4 examination, care or treatment of persons or an administrator, manager or other
5 person in charge of a hospital or similar institution upon notification of the
6 suspected abuse, neglect, exploitation, isolation or abandonment of an older person
7 or vulnerable person by a member of the staff of the hospital.

8 (c) A coroner.

9 (d) Every person who maintains or is employed by an agency to provide
10 personal care services in the home.

11 (e) Every person who maintains or is employed by an agency to provide
12 nursing in the home.

13 (f) Every person who operates, who is employed by or who contracts to
14 provide services for an intermediary service organization as defined in NRS
15 449.4304.

16 (g) Any employee of the Department of Health and Human Services, except
17 the State Long-Term Care Ombudsman appointed pursuant to NRS 427A.125 and
18 any of his or her advocates or volunteers where prohibited from making such a
19 report pursuant to 45 C.F.R. § 1321.11.

20 (h) Any employee of a law enforcement agency or a county's office for
21 protective services or an adult or juvenile probation officer.

22 (i) Any person who maintains or is employed by a facility or establishment that
23 provides care for older persons or vulnerable persons.

24 (j) Any person who maintains, is employed by or serves as a volunteer for an
25 agency or service which advises persons regarding the abuse, neglect, exploitation,
26 isolation or abandonment of an older person or vulnerable person and refers them to
27 persons and agencies where their requests and needs can be met.

28 (k) Every social worker.

29 (l) Any person who owns or is employed by a funeral home or mortuary.

30 (m) Every person who operates or is employed by a community health worker
31 pool, as defined in NRS 449.0028, or with whom a community health worker pool
32 contracts to provide the services of a community health worker, as defined in NRS
33 449.0027.

34 (n) Every person who is enrolled with the Division of Health Care Financing
35 and Policy of the Department of Health and Human Services to provide ~~[doulas]~~ :

36 ~~(1) Doula~~ services to recipients of Medicaid pursuant to NRS 422.27177
37 ~~[-]; or~~

38 ~~(2) [A+] Creative arts therapy services to recipients of Medicaid pursuant~~
39 ~~to section 1 of this act.~~

40 5. A report may be made by any other person.

41 6. If a person who is required to make a report pursuant to subsection 1 knows
42 or has reasonable cause to believe that an older person or vulnerable person has
43 died as a result of abuse, neglect, isolation or abandonment, the person shall, as
44 soon as reasonably practicable, report this belief to the appropriate medical
45 examiner or coroner, who shall investigate the cause of death of the older person or
46 vulnerable person and submit to the appropriate local law enforcement agencies, the
47 appropriate prosecuting attorney, the Aging and Disability Services Division of the
48 Department of Health and Human Services and the Unit for the Investigation and
49 Prosecution of Crimes his or her written findings. The written findings must include
50 the information required pursuant to the provisions of NRS 200.5094, when
51 possible.

52 7. A division, office or department which receives a report pursuant to this
53 section shall cause the investigation of the report to commence within 3 working

1 days. A copy of the final report of the investigation conducted by a division, office
2 or department, other than the Aging and Disability Services Division of the
3 Department of Health and Human Services, must be forwarded within 30 days after
4 the completion of the report to the:

- 5 (a) Aging and Disability Services Division;
- 6 (b) Repository for Information Concerning Crimes Against Older Persons or
7 Vulnerable Persons created by NRS 179A.450; and
- 8 (c) Unit for the Investigation and Prosecution of Crimes.

9 8. If the investigation of a report results in the belief that an older person or
10 vulnerable person is abused, neglected, exploited, isolated or abandoned, the Aging
11 and Disability Services Division of the Department of Health and Human Services
12 or the county's office for protective services may provide protective services to the
13 older person or vulnerable person if the older person or vulnerable person is able
14 and willing to accept them.

15 9. A person who knowingly and willfully violates any of the provisions of
16 this section is guilty of a misdemeanor.

17 10. As used in this section, "Unit for the Investigation and Prosecution of
18 Crimes" means the Unit for the Investigation and Prosecution of Crimes Against
19 Older Persons or Vulnerable Persons in the Office of the Attorney General created
20 pursuant to NRS 228.265.

21 **Sec. 4.** NRS 232.320 is hereby amended to read as follows:

22 232.320 1. The Director:

23 (a) Shall appoint, with the consent of the Governor, administrators of the
24 divisions of the Department, who are respectively designated as follows:

- 25 (1) The Administrator of the Aging and Disability Services Division;
- 26 (2) The Administrator of the Division of Welfare and Supportive Services;
- 27 (3) The Administrator of the Division of Child and Family Services;
- 28 (4) The Administrator of the Division of Health Care Financing and
29 Policy; and
- 30 (5) The Administrator of the Division of Public and Behavioral Health.

31 (b) Shall administer, through the divisions of the Department, the provisions of
32 chapters 63, 424, 425, 427A, 432A to 442, inclusive, 446 to 450, inclusive, 458A
33 and 656A of NRS, NRS 127.220 to 127.310, inclusive, 422.001 to 422.410,
34 inclusive, *and section 1 of this act*, 422.580, 432.010 to 432.133, inclusive,
35 432B.6201 to 432B.626, inclusive, 444.002 to 444.430, inclusive, and 445A.010 to
36 445A.055, inclusive, and all other provisions of law relating to the functions of the
37 divisions of the Department, but is not responsible for the clinical activities of the
38 Division of Public and Behavioral Health or the professional line activities of the
39 other divisions.

40 (c) Shall administer any state program for persons with developmental
41 disabilities established pursuant to the Developmental Disabilities Assistance and
42 Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq.

43 (d) Shall, after considering advice from agencies of local governments and
44 nonprofit organizations which provide social services, adopt a master plan for the
45 provision of human services in this State. The Director shall revise the plan
46 biennially and deliver a copy of the plan to the Governor and the Legislature at the
47 beginning of each regular session. The plan must:

48 (1) Identify and assess the plans and programs of the Department for the
49 provision of human services, and any duplication of those services by federal, state
50 and local agencies;

51 (2) Set forth priorities for the provision of those services;

(3) Provide for communication and the coordination of those services among nonprofit organizations, agencies of local government, the State and the Federal Government;

(4) Identify the sources of funding for services provided by the Department and the allocation of that funding;

(5) Set forth sufficient information to assist the Department in providing those services and in the planning and budgeting for the future provision of those services; and

(6) Contain any other information necessary for the Department to communicate effectively with the Federal Government concerning demographic trends, formulas for the distribution of federal money and any need for the modification of programs administered by the Department.

(e) May, by regulation, require nonprofit organizations and state and local governmental agencies to provide information regarding the programs of those organizations and agencies, excluding detailed information relating to their budgets and payrolls, which the Director deems necessary for the performance of the duties imposed upon him or her pursuant to this section.

(f) Has such other powers and duties as are provided by law.

2. Notwithstanding any other provision of law, the Director, or the Director's designee, is responsible for appointing and removing subordinate officers and employees of the Department.

Sec. 4.5. NRS 233C.096 is hereby amended to read as follows:

233C.096 The Division shall administer the Nevada Cultural Account and may expend only the amount of any gifts, grants, donations, interest and income credited to the Account to:

1. Provide resources for developing the artistic, administrative and financial stability of cultural organizations that serve and enrich communities throughout this state regarding the arts and humanities;

2. Support programs and projects that provide residents of and visitors to this state with access to a broad range of activities regarding the arts and humanities;

3. Encourage cultural organizations to reduce their deficits, to establish cash reserves and endowments and to engage in capital projects that will aid in their stabilization; ~~and~~

4. Support initiatives and organizations that encourage access to, the awareness of and education in the arts ~~and~~; and

5. Support programs and projects to improve health outcomes through the arts and humanities.

Sec. 5. 1. This section becomes effective upon passage and approval.

2. Sections 1 to ~~4.4~~ 4.5, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2024, for all other purposes.