

SENATE BILL NO. 385—SENATOR NEAL

MARCH 27, 2023

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to health care.
(BDR 40-375)

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

CONTAINS UNFUNDED MANDATE (§ 1)
(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 health care; requiring a hospital to establish a team of providers of health care to assist in caring for a patient who is discharged from the hospital; requiring certain providers of health care at a hospital to document the reasons for not ordering or conducting certain tests; requiring the State Plan for Medicaid to provide coverage for certain dental procedures; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Health to adopt regulations governing the licensing and operation of medical facilities, including hospitals. (NRS 449.0302) **Section 1** of this bill requires a hospital that discharges a patient to establish a team of providers of health care, including a dietician, to assist in caring for the patient while the patient rehabilitates at his or her residence. **Section 1** also requires a provider of health care who has primary responsibility for the treatment and care of a patient at a hospital to document in the medical record of the patient the reasons the provider chose not to order or conduct any test that is customarily ordered or conducted. **Sections 2-7 and 10** of this bill make conforming changes to provide for the administration and enforcement of the requirements of **section 1** in the same manner as other requirements imposed on medical facilities by existing law.

Existing law requires the Department of Health and Human Services to develop and administer the State Plan for Medicaid, which includes coverage of specific medical services provided to recipients of Medicaid. (NRS 422.063, 422.270) **Section 9** of this bill requires the Director of the Department to include in the State Plan for Medicaid a requirement that the State pay the nonfederal share of expenses



for the filling of cavities and the fabrication, preparation and placement of temporary and permanent crowns. **Section 9** requires the Department to apply for certain federal approval, as necessary to obtain federal funding to provide such coverage. **Section 8** of this bill makes a conforming change to indicate that the provisions of **section 9** will be administered in the same manner as the provisions of existing law governing the State Plan for Medicaid.

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:

Before a patient is discharged from a hospital:

1. The hospital shall establish a team of providers of health care, which must include, without limitation, a dietician, to assist in caring for the patient while the patient rehabilitates at his or her residence.

2. The provider of health care who has primary responsibility for the treatment and care of the patient at the hospital shall document in the medical record of the patient the reasons the provider chose not to order or conduct any test that is customarily ordered or conducted when the patient:

(a) Is admitted to the hospital; or

(b) Is experiencing symptoms similar to those experienced by the patient or has been diagnosed with a condition with which the patient has been diagnosed.

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 449.0302 is hereby amended to read as follows:

449.0302 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.029 to 449.2428, inclusive, *and section 1 of this act* and for programs of hospice care.

(b) Regulations governing the licensing of such facilities and programs.

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his or her home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) Regulations that prescribe the specific types of discrimination prohibited by NRS 449.101.

(f) Regulations requiring a hospital or independent center for emergency medical care to provide training to each employee who provides care to victims of sexual assault or attempted sexual assault concerning appropriate care for such persons, including, without limitation, training concerning the requirements of NRS 449.1885.

(g) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.029 to 449.2428, inclusive *H*, *and section 1 of this act*.

2. The Board shall adopt separate regulations governing the licensing and operation of:

(a) Facilities for the care of adults during the day; and

(b) Residential facilities for groups,

➤ which provide care to persons with Alzheimer's disease or other severe dementia, as described in paragraph (a) of subsection 2 of NRS 449.1845.

3. The Board shall adopt separate regulations for:

(a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.

(b) The licensure of facilities for refractive surgery which take into consideration the unique factors of operating such a facility.



(c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. In addition to the training requirements prescribed pursuant to NRS 449.093, the Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

(a) The ultimate user's physical and mental condition is stable and is following a predictable course.

(b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) Except as otherwise authorized by the regulations adopted pursuant to NRS 449.0304, the prescribed medication is not administered by injection or intravenously.

(e) The employee has successfully completed training and examination approved by the Division regarding the authorized manner of assistance.

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The Board shall not allow the licensing of a facility as a residential facility for groups which provides assisted living services and a residential facility for groups shall not claim that it provides "assisted living services" unless:

(a) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what



1 services of personalized care will be available to the person and the
2 amount that will be charged for those services throughout the
3 resident's stay at the facility.

4 (b) The residents of the facility reside in their own living units
5 which:

6 (1) Except as otherwise provided in subsection 8, contain
7 toilet facilities;

8 (2) Contain a sleeping area or bedroom; and

9 (3) Are shared with another occupant only upon consent of
10 both occupants.

11 (c) The facility provides personalized care to the residents of the
12 facility and the general approach to operating the facility
13 incorporates these core principles:

14 (1) The facility is designed to create a residential
15 environment that actively supports and promotes each resident's
16 quality of life and right to privacy;

17 (2) The facility is committed to offering high-quality
18 supportive services that are developed by the facility in
19 collaboration with the resident to meet the resident's individual
20 needs;

21 (3) The facility provides a variety of creative and innovative
22 services that emphasize the particular needs of each individual
23 resident and the resident's personal choice of lifestyle;

24 (4) The operation of the facility and its interaction with its
25 residents supports, to the maximum extent possible, each resident's
26 need for autonomy and the right to make decisions regarding his or
27 her own life;

28 (5) The operation of the facility is designed to foster a social
29 climate that allows the resident to develop and maintain personal
30 relationships with fellow residents and with persons in the general
31 community;

32 (6) The facility is designed to minimize and is operated in a
33 manner which minimizes the need for its residents to move out of
34 the facility as their respective physical and mental conditions change
35 over time; and

36 (7) The facility is operated in such a manner as to foster a
37 culture that provides a high-quality environment for the residents,
38 their families, the staff, any volunteers and the community at large.

39 8. The Division may grant an exception from the requirement
40 of subparagraph (1) of paragraph (b) of subsection 7 to a facility
41 which is licensed as a residential facility for groups on or before
42 July 1, 2005, and which is authorized to have 10 or fewer beds and
43 was originally constructed as a single-family dwelling if the
44 Division finds that:



(a) Strict application of that requirement would result in economic hardship to the facility requesting the exception; and

(b) The exception, if granted, would not:

(1) Cause substantial detriment to the health or welfare of any resident of the facility;

(2) Result in more than two residents sharing a toilet facility; or

(3) Otherwise impair substantially the purpose of that requirement.

9. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;

(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;

(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and

(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.

10. The regulations governing the licensing and operation of facilities for transitional living for released offenders must provide for the licensure of at least three different types of facilities, including, without limitation:

(a) Facilities that only provide a housing and living environment;

(b) Facilities that provide or arrange for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; and

(c) Facilities that provide or arrange for the provision of programs for alcohol and other substance use disorders, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

➤ The regulations must provide that if a facility was originally constructed as a single-family dwelling, the facility must not be authorized for more than eight beds.

11. The Board shall adopt regulations applicable to providers of community-based living arrangement services which:



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

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

(c) Require a natural person responsible for the operation of a provider of community-based living arrangement services to receive training concerning the provisions of title 53 of NRS applicable to the provision of community-based living arrangement services; and

(d) Require an applicant for a license to provide community-based living arrangement services 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 community-based living arrangement services from the applicant may continue to receive community-based living arrangement services for 2 months at the expense of the applicant.

12. The Board shall adopt separate regulations governing the licensing and operation of freestanding birthing centers. Such regulations must:

(a) Align with the standards established by the American Association of Birth Centers, or its successor organization, the accrediting body of the Commission for the Accreditation of Birth Centers, or its successor organization, or another nationally recognized organization for accrediting freestanding birthing centers; and

(b) Allow the provision of supervised training to providers of health care, as appropriate, at a freestanding birthing center.

13. As used in this section, "living unit" means an individual private accommodation designated for a resident within the facility.

Sec. 5. 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 441A.315 and any regulations adopted pursuant thereto or 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. 6. 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. 7. 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. 8. NRS 232.320 is hereby amended to read as follows:

232.320 1. The Director:

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

(1) The Administrator of the Aging and Disability Services Division;

(2) The Administrator of the Division of Welfare and Supportive Services;

(3) The Administrator of the Division of Child and Family Services;

(4) The Administrator of the Division of Health Care Financing and Policy; and

(5) The Administrator of the Division of Public and Behavioral Health.

(b) Shall administer, through the divisions of the Department, the provisions of chapters 63, 424, 425, 427A, 432A to 442, inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, *and section 9 of this act*, 422.580, 432.010 to 432.133, inclusive, 432B.6201 to 432B.626, inclusive, 444.002 to 444.430, inclusive, and 445A.010 to 445A.055, inclusive, and all other provisions of law relating to the functions of the divisions of the Department, but is not responsible for the clinical activities of the Division of Public and Behavioral Health or the professional line activities of the other divisions.

(c) Shall administer any state program for persons with developmental disabilities established pursuant to the



1 Developmental Disabilities Assistance and Bill of Rights Act of
2 2000, 42 U.S.C. §§ 15001 et seq.

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

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

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

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

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

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

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

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

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

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

36 **Sec. 9.** Chapter 422 of NRS is hereby amended by adding
37 thereto a new section to read as follows:

38 *1. To the extent that federal financial participation is*
39 *available, the Director shall include in the State Plan for Medicaid*
40 *a requirement that the State pay the nonfederal share of expenses*
41 *for:*

42 *(a) The filling of cavities; and*

43 *(b) The fabrication, preparation and placement of temporary*
44 *and permanent crowns.*

45 *2. The Department shall:*



(a) *Apply to the Secretary of Health and Human Services for any waiver of federal law or apply for any amendment of the State Plan for Medicaid that is necessary for the Department to receive federal funding to include in the State Plan for Medicaid the coverage described in subsection 1.*

(b) *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 paragraph (a).*

Sec. 10. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and an opportunity for a hearing as required by law, impose an administrative fine of not more than \$10,000 for each violation on, recover reasonable investigative fees and costs incurred from, suspend, revoke, deny the issuance or renewal of or place conditions on the license of, and place on probation or impose any combination of the foregoing on any licensee who:

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

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

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

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

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

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

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

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

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



5. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

Sec. 11. The provisions of subsection 1 of NRS 354.599 do not apply to any additional expenses of a local government which are related to the provisions of this act.

Sec. 12. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 7, inclusive, 10 and 11 of this act become effective on October 1, 2023.

3. Sections 8 and 9 of this act become effective:

(a) Upon passage and approval for the purpose of 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.

