

SENATE BILL NO. 71—COMMITTEE ON  
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE DIVISION OF PUBLIC AND  
BEHAVIORAL HEALTH OF THE DEPARTMENT  
OF HEALTH AND HUMAN SERVICES)

PREFILED NOVEMBER 17, 2016

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to medical facilities and  
facilities for the dependent. (BDR 40-183)

FISCAL NOTE: Effect on Local Government: No.  
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 health care; making certain provisions relating to the licensing and regulation of a medical facility applicable to a program of hospice care; revising the definition of the term “psychiatric hospital”; requiring persons who operate or work for certain psychiatric hospitals to undergo a criminal background check; revising certain administrative penalties; amending the procedure by which the Division of Public and Behavioral Health of the Department of Health and Human Services may impose a penalty or seek an injunction against certain persons; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law requires: (1) each medical facility to be licensed by the Division of  
2 Public and Behavioral Health of the Department of Health and Human Services  
3 according to standards adopted by the State Board of Health except in certain  
4 circumstances; and (2) each program of hospice care to be licensed by the State  
5 Board of Health. (NRS 449.030, 449.0302) **Section 1** of this bill includes a  
6 program of hospice care in the definition of “medical facility” for the purposes of  
7 the provisions relating to licensing, and **section 3** of this bill removes the separate  
8 licensing requirement for a program of hospice care. **Sections 1 and 3** therefore



9 provide for a program of hospice care to be licensed and regulated in the same  
10 manner as a medical facility. **Sections 4-8, 13, 14, 17 and 18** of this bill make  
11 conforming changes.

12 **Section 2** of this bill amends the definition of “psychiatric hospital” to remove  
13 the requirement that a hospital for the diagnosis, care and treatment of mental  
14 illness must provide residential care in order to be considered a psychiatric hospital.

15 Existing law: (1) requires persons who apply for a license to operate certain  
16 facilities, hospitals, agencies, programs or homes and persons employed to work for  
17 such a facility, hospital, agency, program or home to undergo a criminal  
18 background check; and (2) prohibits a person from being licensed to operate or  
19 employed to work for such a facility, hospital, agency, program or home if he or  
20 she has been convicted of certain crimes. (NRS 449.089, 449.119-449.125,  
21 449.174) **Sections 8-12 and 15** of this bill provide that persons who apply for a  
22 license to operate a psychiatric hospital that provides inpatient services to children  
23 and persons employed to work at such a psychiatric hospital are subject to those  
24 provisions.

25 Existing law: (1) authorizes the Division of Public and Behavioral Health of the  
26 Department of Health and Human Services to impose a maximum administrative  
27 penalty of \$1,000 per day against a medical facility or facility for the dependent  
28 that violates certain provisions of law; and (2) establishes the minimum and  
29 maximum authorized amounts of such a penalty for a violation relating to the health  
30 or safety of a patient. (NRS 449.163) **Section 14** of this bill: (1) increases the  
31 maximum civil penalty imposed for any violation to \$5,000 per day; and (2)  
32 removes the minimum and maximum penalty for a violation relating to the health  
33 or safety of a patient. The general penalty provisions would apply to any violation  
34 relating to the health and safety of a patient.

35 Existing law prescribes the procedure by which the Division may impose a civil  
36 penalty or seek an injunction against a person operating a medical facility or a  
37 facility for the dependent without a license and the amount of a civil penalty that  
38 may be imposed against such a person. (NRS 449.210, 449.220) Existing law also  
39 prescribes a different procedure by which the Division may impose a civil penalty  
40 or seek an injunction against a person operating a facility for refractive surgery  
41 without a license and the amount of a civil penalty that may be imposed against  
42 such a person. (NRS 449.24897) **Sections 16 and 19** of this bill standardize the  
43 procedure by which the Division may seek an injunction and the imposition of a  
44 civil penalty against a person operating a medical facility, including a facility for  
45 refractive surgery, or a facility for the dependent without a license and the amount  
46 of the civil penalty that may be imposed against such a person. **Section 16** also  
47 eliminates certain uses for money collected from persons found to have operated a  
48 medical facility or facility for the dependent without a license.

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

1 **Section 1.** Chapter 449 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 *As used in NRS 449.030 to 449.240, inclusive, unless the*  
4 *context otherwise requires, “medical facility” has the meaning*  
5 *ascribed to it in NRS 449.0151 and includes a program of hospice*  
6 *care described in NRS 449.196.*



1       **Sec. 2.** NRS 449.0165 is hereby amended to read as follows:  
2       449.0165 “Psychiatric hospital” means a hospital for the  
3 diagnosis, care and treatment of mental illness which provides 24-  
4 hour ~~residential~~ care.

5       **Sec. 3.** NRS 449.030 is hereby amended to read as follows:  
6       449.030 ~~++~~ Except as otherwise provided in NRS 449.03013  
7 and 449.03015, no person, state or local government or agency  
8 thereof may operate or maintain in this State any medical facility or  
9 facility for the dependent without first obtaining a license therefor as  
10 provided in NRS 449.030 to 449.2428, inclusive ~~+~~

11 ~~—2. Unless licensed as a facility for hospice care, a person, state~~  
12 ~~or local government or agency thereof shall not operate a program~~  
13 ~~of hospice care without first obtaining a license for the program~~  
14 ~~from the Board.], and section 1 of this act.~~

15       **Sec. 4.** NRS 449.0301 is hereby amended to read as follows:  
16       449.0301 The provisions of NRS 449.030 to 449.2428,  
17 inclusive, *and section 1 of this act* do not apply to:

18       1. Any facility conducted by and for the adherents of any  
19 church or religious denomination for the purpose of providing  
20 facilities for the care and treatment of the sick who depend solely  
21 upon spiritual means through prayer for healing in the practice of  
22 the religion of the church or denomination, except that such a  
23 facility shall comply with all regulations relative to sanitation and  
24 safety applicable to other facilities of a similar category.

25       2. Foster homes as defined in NRS 424.014.

26       3. Any medical facility or facility for the dependent operated  
27 and maintained by the United States Government or an agency  
28 thereof.

29       **Sec. 5.** NRS 449.0302 is hereby amended to read as follows:

30       449.0302 1. The Board shall adopt:

31       (a) Licensing standards for each class of medical facility or  
32 facility for the dependent covered by NRS 449.030 to 449.2428,  
33 inclusive, ~~and for programs of hospice care.] and section 1 of this~~  
34 ~~act.~~

35       (b) Regulations governing the licensing of such facilities . ~~and~~  
36 ~~programs.]~~

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

43       (d) Regulations establishing a procedure for the indemnification  
44 by the Division, from the amount of any surety bond or other  
45 obligation filed or deposited by a facility for refractive surgery



1 pursuant to NRS 449.068 or 449.069, of a patient of the facility who  
2 has sustained any damages as a result of the bankruptcy of or any  
3 breach of contract by the facility.

4 (e) Any other regulations as it deems necessary or convenient to  
5 carry out the provisions of NRS 449.030 to 449.2428, inclusive ~~H~~,  
6 *and section 1 of this act.*

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

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

10 (b) Residential facilities for groups,

11 ↪ which provide care to persons with Alzheimer's disease.

12 3. The Board shall adopt separate regulations for:

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

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

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

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

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

31 6. The Board shall adopt separate regulations regarding the  
32 assistance which may be given pursuant to NRS 453.375 and  
33 454.213 to an ultimate user of controlled substances or dangerous  
34 drugs by employees of residential facilities for groups. The  
35 regulations must require at least the following conditions before  
36 such assistance may be given:

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

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

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

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



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

4 (d) The prescribed medication is not administered by injection  
5 or intravenously.

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

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

15 (a) Before authorizing a person to move into the facility, the  
16 facility makes a full written disclosure to the person regarding what  
17 services of personalized care will be available to the person and the  
18 amount that will be charged for those services throughout the  
19 resident's stay at the facility.

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

22 (1) Except as otherwise provided in subsection 8, contain  
23 toilet facilities;

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

25 (3) Are shared with another occupant only upon consent of  
26 both occupants.

27 (c) The facility provides personalized care to the residents of the  
28 facility and the general approach to operating the facility  
29 incorporates these core principles:

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

33 (2) The facility is committed to offering high-quality  
34 supportive services that are developed by the facility in  
35 collaboration with the resident to meet the resident's individual  
36 needs;

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

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

44 (5) The operation of the facility is designed to foster a social  
45 climate that allows the resident to develop and maintain personal



1 relationships with fellow residents and with persons in the general  
2 community;

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

7 (c) Facilities that provide or arrange for the provision of alcohol  
8 and drug abuse programs, in addition to providing a housing and  
9 living environment and providing or arranging for the provision of  
10 other supportive services.

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

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

16 **Sec. 6.** NRS 449.0305 is hereby amended to read as follows:

17 449.0305 1. Except as otherwise provided in subsection 5, a  
18 person must obtain a license from the Board to operate a business  
19 that provides referrals to residential facilities for groups.

20 2. The Board shall adopt:

21 (a) Standards for the licensing of businesses that provide  
22 referrals to residential facilities for groups;

23 (b) Standards relating to the fees charged by such businesses;

24 (c) Regulations governing the licensing of such businesses; and

25 (d) Regulations establishing requirements for training the  
26 employees of such businesses.

27 3. A licensed nurse, social worker, physician or hospital, or a  
28 provider of geriatric care who is licensed as a nurse or social  
29 worker, may provide referrals to residential facilities for groups  
30 through a business that is licensed pursuant to this section. The  
31 Board may, by regulation, authorize a public guardian or any other  
32 person it determines appropriate to provide referrals to residential  
33 facilities for groups through a business that is licensed pursuant to  
34 this section.

35 4. A business that is licensed pursuant to this section or an  
36 employee of such a business shall not:

37 (a) Refer a person to a residential facility for groups that is not  
38 licensed.

39 (b) Refer a person to a residential facility for groups if the  
40 business or its employee knows or reasonably should know that the  
41 facility, or the services provided by the facility, are not appropriate  
42 for the condition of the person being referred.

43 (c) Refer a person to a residential facility for groups that is  
44 owned by the same person who owns the business.



1 ↪ A person who violates the provisions of this subsection is liable  
2 for a civil penalty to be recovered by the Attorney General in the  
3 name of the Board for the first offense of not more than \$10,000 and  
4 for a second or subsequent offense of not less than \$10,000 nor  
5 more than \$20,000. Unless otherwise required by federal law, the  
6 Board shall deposit all civil penalties collected pursuant to this  
7 section into a separate account in the State General Fund to be used  
8 to administer and carry out the provisions of NRS 449.001 to  
9 449.430, inclusive, *and section 1 of this act* and 449.435 to  
10 449.965, inclusive, and to protect the health, safety, well-being and  
11 property of the patients and residents of facilities in accordance with  
12 applicable state and federal standards.

13 5. This section does not apply to a medical facility that is  
14 licensed pursuant to NRS 449.030 to 449.2428, inclusive, *and*  
15 *section 1 of this act* on October 1, 1999.

16 **Sec. 7.** NRS 449.0306 is hereby amended to read as follows:

17 449.0306 1. Money received from licensing medical facilities  
18 and facilities for the dependent must be forwarded to the State  
19 Treasurer for deposit in the State General Fund.

20 2. The Division shall enforce the provisions of NRS 449.030 to  
21 449.245, inclusive, *and section 1 of this act*, and may incur any  
22 necessary expenses not in excess of money appropriated for that  
23 purpose by the State or received from the Federal Government.

24 **Sec. 8.** NRS 449.089 is hereby amended to read as follows:

25 449.089 1. Each license issued pursuant to NRS 449.030 to  
26 449.2428, inclusive, *and section 1 of this act* expires on  
27 December 31 following its issuance and is renewable for 1 year  
28 upon reapplication and payment of all fees required pursuant to  
29 NRS 449.050 unless the Division finds, after an investigation, that  
30 the facility has not:

31 (a) Satisfactorily complied with the provisions of NRS 449.030  
32 to 449.2428, inclusive, *and section 1 of this act* or the standards and  
33 regulations adopted by the Board;

34 (b) Obtained the approval of the Director of the Department of  
35 Health and Human Services before undertaking a project, if such  
36 approval is required by NRS 439A.100; or

37 (c) Conformed to all applicable local zoning regulations.

38 2. Each reapplication for an agency to provide personal care  
39 services in the home, an agency to provide nursing in the home, a  
40 community health worker pool, a facility for intermediate care, a  
41 facility for skilled nursing, a hospital described in 42 U.S.C. §  
42 1395ww(d)(1)(B)(iv) which accepts payment through Medicare, *a*  
43 *psychiatric hospital that provides inpatient services to children*, a  
44 residential facility for groups, a program of hospice care, a home for  
45 individual residential care, a facility for the care of adults during the





1 day, a facility for hospice care, a nursing pool, a peer support  
2 recovery organization, the distinct part of a hospital which meets the  
3 requirements of a skilled nursing facility or nursing facility pursuant  
4 to 42 C.F.R. § 483.5(b)(2), a hospital that provides swing-bed  
5 services as described in 42 C.F.R. § ~~482.66~~ **482.58** or, if  
6 residential services are provided to children, a medical facility or  
7 facility for the treatment of abuse of alcohol or drugs must include,  
8 without limitation, a statement that the facility, hospital, agency,  
9 program, pool, organization or home is in compliance with the  
10 provisions of NRS 449.119 to 449.125, inclusive, and 449.174.

11 3. Each reapplication for an agency to provide personal care  
12 services in the home, a community health worker pool, a facility for  
13 intermediate care, a facility for skilled nursing, a facility for the care  
14 of adults during the day, a peer support recovery organization, a  
15 residential facility for groups or a home for individual residential  
16 care must include, without limitation, a statement that the holder of  
17 the license to operate, and the administrator or other person in  
18 charge and employees of, the facility, agency, pool, organization or  
19 home are in compliance with the provisions of NRS 449.093.

20 **Sec. 9.** NRS 449.119 is hereby amended to read as follows:

21 449.119 As used in NRS 449.119 to 449.125, inclusive,  
22 “facility, hospital, agency, program or home” means an agency to  
23 provide personal care services in the home, an agency to provide  
24 nursing in the home, a community health worker pool, a facility for  
25 intermediate care, a facility for skilled nursing, a hospital described  
26 in 42 U.S.C. § 1395ww(d)(1)(B)(iv) which accepts payment through  
27 Medicare, *a psychiatric hospital that provides inpatient services to*  
28 *children*, a peer support recovery organization, a residential facility  
29 for groups, a program of hospice care, a home for individual  
30 residential care, a facility for the care of adults during the day, a  
31 facility for hospice care, a nursing pool, the distinct part of a  
32 hospital which meets the requirements of a skilled nursing facility or  
33 nursing facility pursuant to 42 C.F.R. § 483.5(b)(2), a hospital that  
34 provides swing-bed services as described in 42 C.F.R. § ~~482.66~~  
35 **482.58** or, if residential services are provided to children, a medical  
36 facility or facility for the treatment of abuse of alcohol or drugs.

37 **Sec. 10.** NRS 449.122 is hereby amended to read as follows:

38 449.122 1. Each applicant for a license to operate a facility,  
39 hospital, agency, program or home shall submit to the Central  
40 Repository for Nevada Records of Criminal History one complete  
41 set of fingerprints for submission to the Federal Bureau of  
42 Investigation for its report.

43 2. The Central Repository for Nevada Records of Criminal  
44 History shall determine whether the applicant has been convicted of  
45 a crime listed in paragraph (a) of subsection 1 of NRS 449.174 and



1 immediately inform the administrator of the facility, hospital,  
2 agency, program or home, if any, and the Division of whether the  
3 applicant has been convicted of such a crime.

4 3. A person who holds a license to operate a facility, hospital,  
5 agency, program or home which provides residential services to  
6 children *or a psychiatric hospital that provides inpatient services to*  
7 *children* shall submit to the Central Repository for Nevada Records  
8 of Criminal History one complete set of fingerprints for a report  
9 required by this section at least once every 5 years after the initial  
10 investigation.

11 **Sec. 11.** NRS 449.123 is hereby amended to read as follows:

12 449.123 1. Except as otherwise provided in subsections 2 and  
13 3, within 10 days after hiring an employee, accepting an employee  
14 of a temporary employment service or entering into a contract with  
15 an independent contractor, the administrator of, or the person  
16 licensed to operate a facility, hospital, agency, program or home  
17 shall:

18 (a) Obtain a written statement from the employee, employee of  
19 the temporary employment service or independent contractor stating  
20 whether he or she has been convicted of any crime listed in  
21 NRS 449.174;

22 (b) Obtain an oral and written confirmation of the information  
23 contained in the written statement obtained pursuant to  
24 paragraph (a);

25 (c) Obtain proof that the employee, employee of the temporary  
26 employment service or independent contractor holds any required  
27 license, permit or certificate;

28 (d) Obtain from the employee, employee of the temporary  
29 employment service or independent contractor one set of  
30 fingerprints and a written authorization to forward the fingerprints to  
31 the Central Repository for Nevada Records of Criminal History for  
32 submission to the Federal Bureau of Investigation for its report;

33 (e) Submit to the Central Repository for Nevada Records of  
34 Criminal History the fingerprints obtained pursuant to paragraph (d)  
35 to obtain information on the background and personal history of  
36 each employee, employee of a temporary employment service or  
37 independent contractor to determine whether the person has been  
38 convicted of any crime listed in NRS 449.174; and

39 (f) If an Internet website has been established pursuant to  
40 NRS 439.942:

41 (1) Screen the employee, employee of the temporary  
42 employment service or independent contractor using the Internet  
43 website. Upon request of the Division, proof that the employee,  
44 temporary employee or independent contractor was screened  
45 pursuant to this subparagraph must be provided to the Division.



1 (2) Enter on the Internet website information to be  
2 maintained on the website concerning the employee, employee of  
3 the temporary employment service or independent contractor.

4 2. The administrator of, or the person licensed to operate, a  
5 facility, hospital, agency, program or home is not required to obtain  
6 the information described in subsection 1 from an employee,  
7 employee of a temporary employment service or independent  
8 contractor if his or her fingerprints have been submitted to the  
9 Central Repository for Nevada Records of Criminal History for  
10 submission to the Federal Bureau of Investigation for its report  
11 within the immediately preceding 6 months and the report of the  
12 Federal Bureau of Investigation indicated that the employee,  
13 employee of the temporary employment service or independent  
14 contractor has not been convicted of any crime set forth in  
15 NRS 449.174.

16 3. The administrator of, or the person licensed to operate, a  
17 facility, hospital, agency, program or home is not required to obtain  
18 the information described in subsection 1, other than the information  
19 described in paragraph (c) of subsection 1, from an employee,  
20 employee of a temporary employment service or independent  
21 contractor if:

22 (a) The employee, employee of the temporary employment  
23 service or independent contractor agrees to allow the administrator  
24 of, or the person licensed to operate, a facility, hospital, agency,  
25 program or home to receive notice from the Central Repository for  
26 Nevada Records of Criminal History regarding any conviction and  
27 subsequent conviction of the employee, employee of the temporary  
28 employment service or independent contractor of a crime listed in  
29 NRS 449.174;

30 (b) An agency, board or commission that regulates an  
31 occupation or profession pursuant to title 54 of NRS or temporary  
32 employment service has, within the immediately preceding 5 years,  
33 submitted the fingerprints of the employee, employee of the  
34 temporary employment service or independent contractor to the  
35 Central Repository for Nevada Records of Criminal History for  
36 submission to the Federal Bureau of Investigation for its report; and

37 (c) The report of the Federal Bureau of Investigation indicated  
38 that the employee, employee of the temporary employment service  
39 or independent contractor has not been convicted of any crime set  
40 forth in NRS 449.174.

41 4. The administrator of, or the person licensed to operate, a  
42 facility, hospital, agency, program or home shall ensure that the  
43 information concerning the background and personal history of each  
44 employee, employee of a temporary employment service or



1 independent contractor who works at the facility, hospital, agency,  
2 program or home:

3 (a) Except as otherwise provided in subsection 2, is completed  
4 as soon as practicable, and if residential services are provided to  
5 children ~~H~~ *or the facility is a psychiatric hospital that provides*  
6 *inpatient services to children*, before the employee, employee of the  
7 temporary employment service or independent contractor provides  
8 any care or services to a child in the facility, hospital, agency,  
9 program or home without supervision; and

10 (b) At least once every 5 years after the date of the initial  
11 investigation.

12 5. The administrator or person shall, when required:

13 (a) Obtain one set of fingerprints from the employee, employee  
14 of the temporary employment service or independent contractor;

15 (b) Obtain written authorization from the employee, employee  
16 of the temporary employment service or independent contractor to  
17 forward the fingerprints obtained pursuant to paragraph (a) to the  
18 Central Repository for Nevada Records of Criminal History for  
19 submission to the Federal Bureau of Investigation for its report; and

20 (c) Submit the fingerprints to the Central Repository for Nevada  
21 Records of Criminal History or, if the fingerprints were submitted  
22 electronically, obtain proof of electronic submission of the  
23 fingerprints to the Central Repository for Nevada Records of  
24 Criminal History.

25 6. Upon receiving fingerprints submitted pursuant to this  
26 section, the Central Repository for Nevada Records of Criminal  
27 History shall determine whether the employee, employee of the  
28 temporary employment service or independent contractor has been  
29 convicted of a crime listed in NRS 449.174 and immediately inform  
30 the Division and the administrator of, or the person licensed to  
31 operate, the facility, hospital, agency, program or home at which the  
32 person works whether the employee, employee of the temporary  
33 employment service or independent contractor has been convicted  
34 of such a crime.

35 7. The Central Repository for Nevada Records of Criminal  
36 History may impose a fee upon a facility, hospital, agency, program  
37 or home that submits fingerprints pursuant to this section for the  
38 reasonable cost of the investigation. The facility, hospital, agency,  
39 program or home may recover from the employee or independent  
40 contractor whose fingerprints are submitted not more than one-half  
41 of the fee imposed by the Central Repository. If the facility,  
42 hospital, agency, program or home requires the employee or  
43 independent contractor to pay for any part of the fee imposed by the  
44 Central Repository, it shall allow the employee or independent  
45 contractor to pay the amount through periodic payments. The



1 facility, hospital, agency, program or home may require a temporary  
2 employment service which employs a temporary employee whose  
3 fingerprints are submitted to pay the fee imposed by the Central  
4 Repository. A facility, hospital, agency, program or home shall  
5 notify a temporary employment service if a person employed by the  
6 temporary employment service is determined to be ineligible to  
7 provide services at the facility, hospital, agency, program or home  
8 based upon the results of an investigation conducted pursuant to this  
9 section.

10 8. Unless a greater penalty is provided by law, a person who  
11 willfully provides a false statement or information in connection  
12 with an investigation of the background and personal history of the  
13 person pursuant to this section that would disqualify the person from  
14 employment, including, without limitation, a conviction of a crime  
15 listed in NRS 449.174, is guilty of a misdemeanor.

16 **Sec. 12.** NRS 449.125 is hereby amended to read as follows:

17 449.125 1. Upon receiving information from the Central  
18 Repository for Nevada Records of Criminal History pursuant to  
19 NRS 449.123, or evidence from any other source, that an employee,  
20 employee of a temporary employment service or independent  
21 contractor of a facility, hospital, agency, program or home:

22 (a) Has been convicted of a crime listed in paragraph (a) of  
23 subsection 1 of NRS 449.174; or

24 (b) Has had a substantiated report of abuse or neglect made  
25 against him or her, if he or she is employed at a facility, hospital,  
26 agency, program or home that provides residential services to  
27 children **H** *or a psychiatric hospital that provides inpatient  
28 services to children,*

29 **↳** the administrator of, or the person licensed to operate, the  
30 facility, hospital, agency, program or home shall terminate the  
31 employment or contract of that person or notify the temporary  
32 employment service that its employee is prohibited from providing  
33 services for the facility, hospital, agency, program or home after  
34 allowing the person time to correct the information as required  
35 pursuant to subsection 2.

36 2. If an employee, employee of a temporary employment  
37 service or independent contractor believes that the information  
38 provided by the Central Repository is incorrect, the employee,  
39 employee of the temporary employment service or independent  
40 contractor may immediately inform the facility, hospital, agency,  
41 program or home or temporary employment service. The facility,  
42 hospital, agency, program, home or temporary employment service  
43 that is so informed shall give the employee, employee of the  
44 temporary employment service or independent contractor a  
45 reasonable amount of time of not less than 30 days to correct the



1 information received from the Central Repository before terminating  
2 the employment or contract of the person pursuant to subsection 1.

3 3. A facility, hospital, agency, program or home that has  
4 complied with NRS 449.123 may not be held civilly or criminally  
5 liable based solely upon the ground that the facility, hospital,  
6 agency, program or home allowed an employee, employee of a  
7 temporary employment service or independent contractor to work:

8 (a) Before it received the information concerning the employee,  
9 employee of the temporary employment service or independent  
10 contractor from the Central Repository, except that an employee,  
11 employee of the temporary employment service or independent  
12 contractor shall not have contact with a child without supervision  
13 before such information is received;

14 (b) During the period required pursuant to subsection 2 to allow  
15 the employee, employee of the temporary employment service or  
16 independent contractor to correct that information, except that an  
17 employee, employee of the temporary employment service or  
18 independent contractor shall not have contact with a child without  
19 supervision during such period;

20 (c) Based on the information received from the Central  
21 Repository, if the information received from the Central Repository  
22 was inaccurate; or

23 (d) Any combination thereof.

24 ➔ A facility, hospital, agency, program or home may be held liable  
25 for any other conduct determined to be negligent or unlawful.

26 **Sec. 13.** NRS 449.160 is hereby amended to read as follows:

27 449.160 1. The Division may deny an application for a  
28 license or may suspend or revoke any license issued under the  
29 provisions of NRS 449.030 to 449.2428, inclusive, *and section 1 of*  
30 *this act* upon any of the following grounds:

31 (a) Violation by the applicant or the licensee of any of the  
32 provisions of NRS 439B.410 or 449.030 to 449.245, inclusive, *and*  
33 *section 1 of this act*, or of any other law of this State or of the  
34 standards, rules and regulations adopted thereunder.

35 (b) Aiding, abetting or permitting the commission of any illegal  
36 act.

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

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

42 (e) Failure of the applicant to obtain written approval from the  
43 Director of the Department of Health and Human Services as  
44 required by NRS 439A.100 or as provided in any regulation adopted  
45 pursuant to NRS 449.001 to 449.430, inclusive, *and section 1 of*



1 *this act* and 449.435 to 449.965, inclusive, if such approval is  
2 required.

3 (f) Failure to comply with the provisions of NRS 449.2486.

4 2. In addition to the provisions of subsection 1, the Division  
5 may revoke a license to operate a facility for the dependent if, with  
6 respect to that facility, the licensee that operates the facility, or an  
7 agent or employee of the licensee:

8 (a) Is convicted of violating any of the provisions of  
9 NRS 202.470;

10 (b) Is ordered to but fails to abate a nuisance pursuant to NRS  
11 244.360, 244.3603 or 268.4124; or

12 (c) Is ordered by the appropriate governmental agency to correct  
13 a violation of a building, safety or health code or regulation but fails  
14 to correct the violation.

15 3. The Division shall maintain a log of any complaints that it  
16 receives relating to activities for which the Division may revoke the  
17 license to operate a facility for the dependent pursuant to subsection  
18 2. The Division shall provide to a facility for the care of adults  
19 during the day:

20 (a) A summary of a complaint against the facility if the  
21 investigation of the complaint by the Division either substantiates  
22 the complaint or is inconclusive;

23 (b) A report of any investigation conducted with respect to the  
24 complaint; and

25 (c) A report of any disciplinary action taken against the facility.

26 ↪ The facility shall make the information available to the public  
27 pursuant to NRS 449.2486.

28 4. On or before February 1 of each odd-numbered year, the  
29 Division shall submit to the Director of the Legislative Counsel  
30 Bureau a written report setting forth, for the previous biennium:

31 (a) Any complaints included in the log maintained by the  
32 Division pursuant to subsection 3; and

33 (b) Any disciplinary actions taken by the Division pursuant to  
34 subsection 2.

35 **Sec. 14.** NRS 449.163 is hereby amended to read as follows:

36 449.163 1. In addition to the payment of the amount required  
37 by NRS 449.0308, if a medical facility or facility for the dependent  
38 violates any provision related to its licensure, including any  
39 provision of NRS 439B.410 or 449.030 to 449.2428, inclusive, *and*  
40 *section 1 of this act*, or any condition, standard or regulation  
41 adopted by the Board, the Division, in accordance with the  
42 regulations adopted pursuant to NRS 449.165, may:

43 (a) Prohibit the facility from admitting any patient until it  
44 determines that the facility has corrected the violation;



1 (b) Limit the occupancy of the facility to the number of beds  
2 occupied when the violation occurred, until it determines that the  
3 facility has corrected the violation;

4 (c) If the license of the facility limits the occupancy of the  
5 facility and the facility has exceeded the approved occupancy,  
6 require the facility, at its own expense, to move patients to another  
7 facility that is licensed;

8 (d) Impose an administrative penalty of not more than ~~1,000~~  
9 **5,000** per day for each violation, together with interest thereon at a  
10 rate not to exceed 10 percent per annum; and

11 (e) Appoint temporary management to oversee the operation of  
12 the facility and to ensure the health and safety of the patients of the  
13 facility, until:

14 (1) It determines that the facility has corrected the violation  
15 and has management which is capable of ensuring continued  
16 compliance with the applicable statutes, conditions, standards and  
17 regulations; or

18 (2) Improvements are made to correct the violation.

19 2. ~~If a violation by a medical facility or facility for the~~  
20 ~~dependent relates to the health or safety of a patient, an~~  
21 ~~administrative penalty imposed pursuant to paragraph (d) of~~  
22 ~~subsection 1 must be in a total amount of not less than \$1,000 and~~  
23 ~~not more than \$10,000 for each patient who was harmed or at risk of~~  
24 ~~harm as a result of the violation.~~

25 ~~3.~~ If the facility fails to pay any administrative penalty  
26 imposed pursuant to paragraph (d) of subsection 1, the Division  
27 may:

28 (a) Suspend the license of the facility until the administrative  
29 penalty is paid; and

30 (b) Collect court costs, reasonable attorney's fees and other  
31 costs incurred to collect the administrative penalty.

32 ~~4.~~ 3. The Division may require any facility that violates any  
33 provision of NRS 439B.410 or 449.030 to 449.2428, inclusive, *and*  
34 *section 1 of this act*, or any condition, standard or regulation  
35 adopted by the Board to make any improvements necessary to  
36 correct the violation.

37 ~~5.~~ 4. Any money collected as administrative penalties  
38 pursuant to paragraph (d) of subsection 1 must be accounted for  
39 separately and used to administer and carry out the provisions of  
40 NRS 449.001 to 449.430, inclusive, *and section 1 of this act* and  
41 449.435 to 449.965, inclusive, to protect the health, safety, well-  
42 being and property of the patients and residents of facilities in  
43 accordance with applicable state and federal standards or for any  
44 other purpose authorized by the Legislature.





1       **Sec. 15.** NRS 449.174 is hereby amended to read as follows:

2       449.174 1. In addition to the grounds listed in NRS 449.160,  
3 the Division may deny a license to operate a facility, hospital,  
4 agency, program or home to an applicant or may suspend or revoke  
5 the license of a licensee to operate such a facility, hospital, agency,  
6 program or home if:

7       (a) The applicant or licensee has been convicted of:

8           (1) Murder, voluntary manslaughter or mayhem;

9           (2) Assault or battery with intent to kill or to commit sexual  
10 assault or mayhem;

11           (3) Sexual assault, statutory sexual seduction, incest,  
12 lewdness or indecent exposure, or any other sexually related crime  
13 that is punished as a felony;

14           (4) Prostitution, solicitation, lewdness or indecent exposure,  
15 or any other sexually related crime that is punished as a  
16 misdemeanor, within the immediately preceding 7 years;

17           (5) A crime involving domestic violence that is punished as a  
18 felony;

19           (6) A crime involving domestic violence that is punished as a  
20 misdemeanor, within the immediately preceding 7 years;

21           (7) Abuse or neglect of a child or contributory delinquency;

22           (8) A violation of any federal or state law regulating the  
23 possession, distribution or use of any controlled substance or any  
24 dangerous drug as defined in chapter 454 of NRS, within the  
25 immediately preceding 7 years;

26           (9) Abuse, neglect, exploitation, isolation or abandonment of  
27 older persons or vulnerable persons, including, without limitation, a  
28 violation of any provision of NRS 200.5091 to 200.50995,  
29 inclusive, or a law of any other jurisdiction that prohibits the same  
30 or similar conduct;

31           (10) A violation of any provision of law relating to the State  
32 Plan for Medicaid or a law of any other jurisdiction that prohibits  
33 the same or similar conduct, within the immediately preceding 7  
34 years;

35           (11) A violation of any provision of NRS 422.450 to  
36 422.590, inclusive;

37           (12) A criminal offense under the laws governing Medicaid  
38 or Medicare, within the immediately preceding 7 years;

39           (13) Any offense involving fraud, theft, embezzlement,  
40 burglary, robbery, fraudulent conversion or misappropriation of  
41 property, within the immediately preceding 7 years;

42           (14) Any other felony involving the use or threatened use of  
43 force or violence against the victim or the use of a firearm or other  
44 deadly weapon; or



1 (15) An attempt or conspiracy to commit any of the offenses  
2 listed in this paragraph, within the immediately preceding 7 years;

3 (b) The licensee has, in violation of NRS 449.125, continued to  
4 employ a person who has been convicted of a crime listed in  
5 paragraph (a); or

6 (c) The applicant or licensee has had a substantiated report of  
7 child abuse or neglect made against him or her and if the facility,  
8 hospital, agency, program or home provides residential services to  
9 children ~~†~~ *or is a psychiatric hospital that provides inpatient  
10 services to children.*

11 2. In addition to the grounds listed in NRS 449.160, the  
12 Division may suspend or revoke the license of a licensee to operate  
13 an agency to provide personal care services in the home, an agency  
14 to provide nursing in the home, a community health worker pool or  
15 a peer support recovery organization if the licensee has, in violation  
16 of NRS 449.125, continued to employ a person who has been  
17 convicted of a crime listed in paragraph (a) of subsection 1.

18 3. As used in this section:

19 (a) "Domestic violence" means an act described in NRS 33.018.

20 (b) "Facility, hospital, agency, program or home" has the  
21 meaning ascribed to it in NRS 449.119.

22 (c) "Medicaid" has the meaning ascribed to it in NRS 439B.120.

23 (d) "Medicare" has the meaning ascribed to it in NRS 439B.130.

24 **Sec. 16.** NRS 449.210 is hereby amended to read as follows:

25 449.210 1. In addition to the payment of the amount required  
26 by NRS 449.0308 ~~†, except as otherwise provided in subsection 2  
27 and NRS 449.24897,†~~ *and any civil penalty imposed pursuant to  
28 subsection 4,* a person who operates a medical facility or facility for  
29 the dependent without a license issued by the Division is guilty of a  
30 misdemeanor.

31 2. ~~†In addition to the payment of the amount required by NRS  
32 449.0308, if a person operates a facility for the dependent without a  
33 license issued by the Division, the Division shall:~~

34 ~~—(a) Impose a civil penalty on the operator in the following  
35 amount:~~

36 ~~—(1) For a first offense, \$10,000.~~

37 ~~—(2) For a second offense, \$25,000.~~

38 ~~—(3) For a third or subsequent offense, \$50,000.~~

39 ~~—(b) Order the operator, at the operator's own expense, to move  
40 all of the persons who are receiving services in the facility for the  
41 dependent to a facility for the dependent of the same type that is  
42 licensed.~~



1 ~~—(c) Prohibit the operator from applying for a license to operate~~  
2 ~~the type of facility for the dependent that the operator was found to~~  
3 ~~be operating without a license. The duration of the period of~~  
4 ~~prohibition must be:~~

5 ~~—(1) For 6 months if the operator is punished pursuant to~~  
6 ~~subparagraph (1) of paragraph (a).~~

7 ~~—(2) For 1 year if the operator is punished pursuant to~~  
8 ~~subparagraph (2) of paragraph (a).~~

9 ~~—(3) Permanent if the operator is punished pursuant to~~  
10 ~~subparagraph (3) of paragraph (a).~~

11 ~~3. Before the Division imposes an administrative sanction~~  
12 ~~pursuant to subsection 2, the Division shall provide the operator of a~~  
13 ~~facility for the dependent with reasonable notice. The notice must~~  
14 ~~contain the legal authority, jurisdiction and reasons for the action to~~  
15 ~~be taken. If the operator of a facility for the dependent wants to~~  
16 ~~contest the action, the operator may file an appeal pursuant to the~~  
17 ~~regulations of the State Board of Health adopted pursuant to NRS~~  
18 ~~449.165 and 449.170. Upon receiving notice of an appeal, the~~  
19 ~~Division shall hold a hearing in accordance with those regulations.~~  
20 ~~For the purpose of this subsection, it is no defense to the violation of~~  
21 ~~operating a facility for the dependent without a license that the~~  
22 ~~operator thereof subsequently licensed the facility in accordance~~  
23 ~~with law.]~~

24 *If the Division believes that a person is operating a*  
25 *medical facility or facility for the dependent without such a*  
26 *license, the Division may issue an order to cease and desist the*  
27 *operation of the facility. The order must be served upon the person*  
28 *by personal delivery or by certified or registered mail, return*  
29 *receipt requested. The order is effective upon service.*

30 *3. If a person does not voluntarily cease operating a medical*  
31 *facility or facility for the dependent without a license or apply for*  
32 *licensure within 30 days after the date of service of the order*  
33 *pursuant to subsection 2, the Division may bring an action in a*  
34 *court of competent jurisdiction pursuant to NRS 449.220.*

35 *4. Upon a showing by the Division that a person is operating*  
36 *a medical facility or facility for the dependent without a license, a*  
37 *court of competent jurisdiction may:*

38 *(a) Enjoin the person from operating the facility.*

39 *(b) Impose a civil penalty on the operator to be recovered by*  
40 *the Division of not more than \$10,000 for the first offense or not*  
41 *less than \$10,000 or more than \$25,000 for a second or*  
42 *subsequent offense.*

43 *5. Unless otherwise required by federal law, the Division shall*  
44 *deposit all civil penalties collected pursuant to paragraph ~~[(a)] (b)~~*  
45 *subsection ~~[2] 4~~ into a separate account in the State General Fund to*  
*be used to administer and carry out the provisions of NRS 449.001*



1 to 449.430, inclusive, and ~~449.935 to 449.965, inclusive,~~ *section 1*  
2 *of this act*, and to protect the health, safety, well-being and property  
3 of the patients and residents of facilities in accordance with  
4 applicable state and federal standards.

5 **Sec. 17.** NRS 449.220 is hereby amended to read as follows:

6 449.220 1. The Division may bring an action in the name of  
7 the State to enjoin any person, state or local government unit or  
8 agency thereof from operating or maintaining any facility within the  
9 meaning of NRS 449.030 to 449.2428, inclusive ~~†~~, *and section 1*  
10 *of this act*:

11 (a) Without first obtaining a license therefor; or

12 (b) After his or her license has been revoked or suspended by  
13 the Division.

14 2. It is sufficient in such action to allege that the defendant did,  
15 on a certain date and in a certain place, operate and maintain such a  
16 facility without a license.

17 **Sec. 18.** NRS 654.190 is hereby amended to read as follows:

18 654.190 1. The Board may, after notice and an opportunity  
19 for a hearing as required by law, impose an administrative fine of  
20 not more than \$10,000 for each violation on, recover reasonable  
21 investigative fees and costs incurred from, suspend, revoke, deny  
22 the issuance or renewal of or place conditions on the license of, and  
23 place on probation or impose any combination of the foregoing on  
24 any nursing facility administrator or administrator of a residential  
25 facility for groups who:

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

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

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

31 (d) Aids or abets any person in the violation of any of the  
32 provisions of NRS 449.030 to 449.2428, inclusive, *and section 1 of*  
33 *this act*, as those provisions pertain to a facility for skilled nursing,  
34 facility for intermediate care or residential facility for groups.

35 (e) Violates any regulation of the Board prescribing additional  
36 standards of conduct for nursing facility administrators or  
37 administrators of residential facilities for groups, including, without  
38 limitation, a code of ethics.

39 (f) Engages in conduct that violates the trust of a patient or  
40 resident or exploits the relationship between the nursing facility  
41 administrator or administrator of a residential facility for groups and  
42 the patient or resident for the financial or other gain of the licensee.

43 2. If a licensee requests a hearing pursuant to subsection 1, the  
44 Board shall give the licensee written notice of a hearing pursuant to



1 NRS 233B.121 and 241.034. A licensee may waive, in writing, his  
2 or her right to attend the hearing.

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

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

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

17 **Sec. 19.** NRS 449.24897 is hereby repealed.

18 **Sec. 20.** This act becomes effective on July 1, 2017.

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**TEXT OF REPEALED SECTION**

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**449.24897 Order to cease and desist operation for failure to obtain license; injunction; penalties.**

1. If the Division believes that a person who is required to obtain a license pursuant to this chapter is operating a facility for refractive surgery without such a license, the Division may issue an order to cease and desist the operation of the facility. The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service.

2. An order issued pursuant to subsection 1 expires 30 days after the date of service unless the Division institutes an action in a court of competent jurisdiction seeking an injunction.

3. Upon a showing by the Division that a person is operating a facility for refractive surgery without a license issued pursuant to this chapter, a court of competent jurisdiction may:

(a) Enjoin the person from operating the facility.

(b) Impose a civil penalty to be recovered by the Division of not more than \$10,000 for the first offense and of not less than \$10,000 or more than \$20,000 for a second or subsequent offense.



4. A person enjoined or penalized pursuant to subsection 3 may not apply for a license to operate a facility for refractive surgery for a period of 6 months after the date on which the court issues the injunction or penalty.

30



\* S B 7 1 \*



