

Senate Bill No. 71—Committee on  
Health and Human Services

CHAPTER.....

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 psychiatric residential treatment facilities and certain psychiatric hospitals to undergo a criminal background check; revising certain administrative penalties; authorizing the Division of Public and Behavioral Health of the Department of Health and Human Services to take certain actions concerning a facility required by regulation of the State Board of Health to be licensed; amending the procedure by which the Division may impose a penalty or seek an injunction against certain persons; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires: (1) each medical facility to be licensed by the Division of Public and Behavioral Health of the Department of Health and Human Services according to standards adopted by the State Board of Health except in certain circumstances; and (2) each program of hospice care to be licensed by the State Board of Health. (NRS 449.030, 449.0302) **Section 1** of this bill includes a program of hospice care in the definition of “medical facility” for the purposes of the provisions relating to licensing, and **section 3** of this bill removes the separate licensing requirement for a program of hospice care. **Sections 1 and 3** therefore provide for a program of hospice care to be licensed and regulated in the same manner as a medical facility. **Sections 4-8, 13, 14, 17 and 18** of this bill make conforming changes.

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

Existing law: (1) requires persons who apply for a license to operate certain facilities, hospitals, agencies, programs or homes and persons employed to work for such a facility, hospital, agency, program or home to undergo a criminal background check; and (2) prohibits a person from being licensed to operate or employed to work for such a facility, hospital, agency, program or home if he or she has been convicted of certain crimes. (NRS 449.089, 449.119-449.125, 449.174) **Sections 8, 9-12 and 15** of this bill provide that persons who apply for a license to operate a psychiatric hospital that provides inpatient services to children or a psychiatric residential treatment facility and persons employed to work at such a psychiatric hospital or a psychiatric residential treatment facility are subject to those provisions. **Sections 1.6, 1.9, 3-8, 13, 17 and 18** of this bill make conforming changes.

Existing law authorizes the State Board of Health to adopt regulations requiring the licensing of facilities that provide medical care or treatment that are not required by statute to be licensed. (NRS 449.0303) **Section 4** of this bill clarifies that such facilities are not required to be licensed if they are operated by the United



States Government. **Sections 7.3, 7.6, 8.5, 12.5 and 14** of this bill provide for the inspection of, issuance of a provisional license to and imposition of discipline against such a facility under the same circumstances as a medical facility or facility for the dependent. **Section 14.6** of this bill authorizes the Division of Public and Behavioral Health of the Department of Health and Human Services to take control of and ensure the safety of the medical records of such a facility if the facility ceases to operate.

Existing law: (1) authorizes the Division to impose a maximum administrative penalty of \$1,000 per day against a medical facility or facility for the dependent that violates certain provisions of law; and (2) establishes the minimum and maximum authorized amounts of such a penalty for a violation relating to the health or safety of a patient. (NRS 449.163) **Section 14** of this bill: (1) additionally authorizes the imposition of administrative penalties against a facility that is required by the regulations of the Board to be licensed; (2) increases the maximum civil penalty imposed for any violation to \$5,000 per day; and (3) removes the minimum and maximum penalty for a violation relating to the health or safety of a patient. The general penalty provisions would apply to any violation relating to the health and safety of a patient. **Section 14.3** of this bill requires the Board to adopt regulations establishing an administrative penalty to be imposed when a facility commits a violation that causes harm or a risk of harm to more than one person.

Existing law prescribes the procedure by which the Division may impose a civil penalty or seek an injunction against a person operating a medical facility or a facility for the dependent without a license and the amount of a civil penalty that may be imposed against such a person. (NRS 449.210, 449.220) Existing law also prescribes a different procedure by which the Division may impose a civil penalty or seek an injunction against a person operating a facility for refractive surgery without a license and the amount of a civil penalty that may be imposed against such a person. (NRS 449.24897) **Sections 16 and 19** of this bill standardize the procedure by which the Division may seek an injunction and the imposition of a civil penalty against a person operating a medical facility, including a facility for refractive surgery, a facility for the dependent or a facility that is required by the regulations of the Board to be licensed without a license and the amount of the civil penalty that may be imposed against such a person. **Section 16** also eliminates certain uses for money collected from persons found to have operated a medical facility, facility for the dependent or a facility that is required by the regulations of the Board to be licensed without a license.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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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 the provisions set forth as sections 1.3, 1.6 and 1.9 of this act.

**Sec. 1.3.** *As used in NRS 449.030 to 449.240, inclusive, 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. 1.6.** *As used in NRS 449.119 to 449.125, inclusive, and section 1.9 of this act, unless the context otherwise requires, the words and terms defined in NRS 449.119 and section 1.9 of this act have the meanings ascribed to them in those sections.*

**Sec. 1.9.** *“Psychiatric residential treatment facility” means a facility, other than a hospital, that provides a range of psychiatric services to treat residents under the age of 21 years on an inpatient basis under the direction of a physician.*

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

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

~~2. Unless licensed as a facility for hospice care, a person, state or local government or agency thereof shall not operate a program of hospice care without first obtaining a license for the program from the Board.~~, *and sections 1.3, 1.6 and 1.9 of this act.*

**Sec. 4.** NRS 449.0301 is hereby amended to read as follows:  
449.0301 The provisions of NRS 449.030 to 449.2428, inclusive, *and sections 1.3, 1.6 and 1.9 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, ~~or~~ 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. 5.** 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 449.030 to 449.2428,



inclusive, ~~and for programs of hospice care.~~ *and sections 1.3, 1.6 and 1.9 of this act.*

(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) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.030 to 449.2428, inclusive ~~†~~, *and sections 1.3, 1.6 and 1.9 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.

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

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

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

(2) Contain a sleeping area or bedroom; and

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

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



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

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

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

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

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

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

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

8. The Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility which is licensed as a residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single-family dwelling if the 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 alcohol and drug abuse programs, 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. As used in this section, “living unit” means an individual private accommodation designated for a resident within the facility.

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

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

2. The Board shall adopt:

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

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

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



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

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

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

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

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

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

↳ A person who violates the provisions of this subsection is liable for a civil penalty to be recovered by the Attorney General in the name of the Board for the first offense of not more than \$10,000 and for a second or subsequent offense of not less than \$10,000 nor more than \$20,000. Unless otherwise required by federal law, the Board shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used to administer and carry out the provisions of NRS 449.001 to 449.430, inclusive, *and sections 1.3, 1.6 and 1.9 of this act* and 449.435 to 449.965, inclusive, and to protect the health, safety, well-being and property of the patients and residents of facilities in accordance with applicable state and federal standards.

5. This section does not apply to a medical facility that is licensed pursuant to NRS 449.030 to 449.2428, inclusive, *and sections 1.3, 1.6 and 1.9 of this act* on October 1, 1999.

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

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

2. The Division shall enforce the provisions of NRS 449.030 to 449.245, inclusive, *and sections 1.3, 1.6 and 1.9 of this act*, and may incur any necessary expenses not in excess of money





appropriated for that purpose by the State or received from the Federal Government.

**Sec. 7.3.** NRS 449.0307 is hereby amended to read as follows:  
449.0307 The Division may:

1. Upon receipt of an application for a license, conduct an investigation into the premises, facilities, qualifications of personnel, methods of operation, policies and purposes of any person proposing to engage in the operation of a medical facility , ~~for~~ a facility for the dependent ~~or~~ *or facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed.* The facility is subject to inspection and approval as to standards for safety from fire, on behalf of the Division, by the State Fire Marshal.

2. Upon receipt of a complaint against a medical facility , ~~for~~ facility for the dependent ~~or~~ *or facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed,* except for a complaint concerning the cost of services, conduct an investigation into the premises, facilities, qualifications of personnel, methods of operation, policies, procedures and records of that facility or any other medical facility , ~~for~~ facility for the dependent *or facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed* which may have information pertinent to the complaint.

3. Employ such professional, technical and clerical assistance as it deems necessary to carry out the provisions of NRS 449.030 to 449.245, inclusive ~~or~~ *and sections 1.3, 1.6 and 1.9 of this act.*

**Sec. 7.6.** NRS 449.0308 is hereby amended to read as follows:

449.0308 1. Except as otherwise provided in this section, the Division may charge and collect from a medical facility , ~~for~~ facility for the dependent *or facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed* or a person who operates such a facility without a license issued by the Division the actual costs incurred by the Division for the enforcement of the provisions of NRS 449.030 to 449.2428, inclusive, *and sections 1.3, 1.6 and 1.9 of this act* including, without limitation, the actual cost of conducting an inspection or investigation of the facility.

2. The Division shall not charge and collect the actual cost for enforcement pursuant to subsection 1 if the enforcement activity is:

(a) Related to the issuance or renewal of a license for which the Board charges a fee pursuant to NRS 449.050 or 449.089; or

(b) Conducted pursuant to an agreement with the Federal Government which has appropriated money for that purpose.



3. Any money collected pursuant to subsection 1 may be used by the Division to administer and carry out the provisions of NRS 449.030 to 449.2428, inclusive, *and sections 1.3, 1.6 and 1.9 of this act* and the regulations adopted pursuant thereto.

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

449.089 1. Each license issued pursuant to NRS 449.030 to 449.2428, inclusive, *and sections 1.3, 1.6 and 1.9 of this act* expires on December 31 following its issuance and is renewable for 1 year upon reapplication and payment of all fees required pursuant to NRS 449.050 unless the Division finds, after an investigation, that the facility has not:

(a) Satisfactorily complied with the provisions of NRS 449.030 to 449.2428, inclusive, *and sections 1.3, 1.6 and 1.9 of this act* or the standards and regulations adopted by the Board;

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

(c) Conformed to all applicable local zoning regulations.

2. Each reapplication for an agency to provide personal care services in the home, an agency to provide nursing in the home, a community health worker pool, a facility for intermediate care, a facility for skilled nursing, a hospital described in 42 U.S.C. § 1395ww(d)(1)(B)(iv) which accepts payment through Medicare, *a psychiatric hospital that provides inpatient services to children, a psychiatric residential treatment facility*, a residential facility for groups, a program of hospice care, a home for individual residential care, a facility for the care of adults during the day, a facility for hospice care, a nursing pool, a peer support recovery organization, the distinct part of a hospital which meets the requirements of a skilled nursing facility or nursing facility pursuant to 42 C.F.R. § 483.5(b)(2), a hospital that provides swing-bed services as described in 42 C.F.R. § ~~482.661~~ **482.58** or, if residential services are provided to children, a medical facility or facility for the treatment of abuse of alcohol or drugs must include, without limitation, a statement that the facility, hospital, agency, program, pool, organization or home is in compliance with the provisions of NRS 449.119 to 449.125, inclusive, *and sections 1.6 and 1.9 of this act* and 449.174.

3. Each reapplication for an agency to provide personal care services in the home, a community health worker pool, a facility for intermediate care, a facility for skilled nursing, a facility for the care of adults during the day, a peer support recovery organization, a residential facility for groups or a home for individual residential



care must include, without limitation, a statement that the holder of the license to operate, and the administrator or other person in charge and employees of, the facility, agency, pool, organization or home are in compliance with the provisions of NRS 449.093.

**Sec. 8.5.** NRS 449.091 is hereby amended to read as follows:

449.091 1. The Division may cancel the license of a medical facility , ~~for~~ facility for the dependent *or a facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed* and issue a provisional license, effective for a period determined by the Division, to such a facility if it:

(a) Is in operation at the time of the adoption of standards and regulations pursuant to the provisions of NRS 449.030 to 449.2428, inclusive, *and sections 1.3, 1.6 and 1.9 of this act* and the Division determines that the facility requires a reasonable time under the particular circumstances within which to comply with the standards and regulations; or

(b) Has failed to comply with the standards or regulations and the Division determines that the facility is in the process of making the necessary changes or has agreed to make the changes within a reasonable time.

2. The provisions of subsection 1 do not require the issuance of a license or prevent the Division from refusing to renew or from revoking or suspending any license where the Division deems such action necessary for the health and safety of the occupants of any facility.

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

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



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

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

2. The Central Repository for Nevada Records of Criminal History shall determine whether the applicant has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.174 and immediately inform the administrator of the facility, hospital, agency, program or home, if any, and the Division of whether the applicant has been convicted of such a crime.

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

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

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

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

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

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

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

(e) Submit to the Central Repository for Nevada Records of Criminal History the fingerprints obtained pursuant to paragraph (d)



to obtain information on the background and personal history of each employee, employee of a temporary employment service or independent contractor to determine whether the person has been convicted of any crime listed in NRS 449.174; and

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

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

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

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

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

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

(b) An agency, board or commission that regulates an occupation or profession pursuant to title 54 of NRS or temporary employment service has, within the immediately preceding 5 years,



submitted the fingerprints of the employee, employee of the temporary employment service or independent contractor to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

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

4. The administrator of, or the person licensed to operate, a facility, hospital, agency, program or home shall ensure that the information concerning the background and personal history of each employee, employee of a temporary employment service or independent contractor who works at the facility, hospital, agency, program or home:

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

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

5. The administrator or person shall, when required:

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

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

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

6. Upon receiving fingerprints submitted pursuant to this section, the Central Repository for Nevada Records of Criminal History shall determine whether the employee, employee of the temporary employment service or independent contractor has been convicted of a crime listed in NRS 449.174 and immediately inform the Division and the administrator of, or the person licensed to



operate, the facility, hospital, agency, program or home at which the person works whether the employee, employee of the temporary employment service or independent contractor has been convicted of such a crime.

7. The Central Repository for Nevada Records of Criminal History may impose a fee upon a facility, hospital, agency, program or home that submits fingerprints pursuant to this section for the reasonable cost of the investigation. The facility, hospital, agency, program or home may recover from the employee or independent contractor whose fingerprints are submitted not more than one-half of the fee imposed by the Central Repository. If the facility, hospital, agency, program or home requires the employee or independent contractor to pay for any part of the fee imposed by the Central Repository, it shall allow the employee or independent contractor to pay the amount through periodic payments. The facility, hospital, agency, program or home may require a temporary employment service which employs a temporary employee whose fingerprints are submitted to pay the fee imposed by the Central Repository. A facility, hospital, agency, program or home shall notify a temporary employment service if a person employed by the temporary employment service is determined to be ineligible to provide services at the facility, hospital, agency, program or home based upon the results of an investigation conducted pursuant to this section.

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

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

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

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

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



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

2. If an employee, employee of a temporary employment service or independent contractor believes that the information provided by the Central Repository is incorrect, the employee, employee of the temporary employment service or independent contractor may immediately inform the facility, hospital, agency, program or home or temporary employment service. The facility, hospital, agency, program, home or temporary employment service that is so informed shall give the employee, employee of the temporary employment service or independent contractor a reasonable amount of time of not less than 30 days to correct the information received from the Central Repository before terminating the employment or contract of the person pursuant to subsection 1.

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

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

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

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

(d) Any combination thereof.

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





**Sec. 12.5.** NRS 449.132 is hereby amended to read as follows:

449.132 Every medical facility, ~~for~~ facility for the dependent *or facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed* may be inspected at any time, with or without notice, as often as is necessary by:

1. The Division of Public and Behavioral Health to ensure compliance with all applicable regulations and standards; and

2. Any person designated by the Aging and Disability Services Division of the Department of Health and Human Services to investigate complaints made against the facility.

**Sec. 13.** 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 449.030 to 449.2428, inclusive, *and sections 1.3, 1.6 and 1.9 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 449.030 to 449.245, inclusive, *and sections 1.3, 1.6 and 1.9 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 sections 1.3, 1.6 and 1.9 of this act* and 449.435 to 449.965, inclusive, if such approval is required.

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

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. 14.** 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, ~~for~~ 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 449.030 to 449.2428, inclusive, *and sections 1.3, 1.6 and 1.9 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 ~~[\$1,000]~~ **\$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 a violation by a medical facility or facility for the dependent relates to the health or safety of a patient, an administrative penalty imposed pursuant to paragraph (d) of subsection 1 must be in a total amount of not less than \$1,000 and not more than \$10,000 for each patient who was harmed or at risk of harm as a result of the violation.~~

~~3.~~ 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.

~~4.~~ **3.** The Division may require any facility that violates any provision of NRS 439B.410 or 449.030 to 449.2428, inclusive, *and sections 1.3, 1.6 and 1.9 of this act*, or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

~~5.~~ **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 sections 1.3, 1.6 and 1.9 of this act* and 449.435 to 449.965, inclusive, 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. 14.3.** NRS 449.165 is hereby amended to read as follows:

449.165 The Board shall adopt regulations establishing the criteria for the imposition of each sanction prescribed by NRS 449.163. These regulations must:

1. Prescribe the circumstances and manner in which each sanction applies;



2. Minimize the time between identification of a violation and the imposition of a sanction;

3. Provide for the imposition of incrementally more severe sanctions for repeated or uncorrected violations; ~~and~~

4. Provide for less severe sanctions for lesser violations of applicable state statutes, conditions, standards or regulations ~~and~~ ;  
*and*

*5. Establish an administrative penalty to be imposed if a violation by a medical facility, facility for the dependent or a facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed causes harm or the risk of harm to more than one person.*

**Sec. 14.6.** NRS 449.171 is hereby amended to read as follows:

449.171 1. If the Division suspends the license of a medical facility , ~~for~~ a facility for the dependent *or a facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed* pursuant to the provisions of this chapter, or if a facility otherwise ceases to operate, including, without limitation, pursuant to an action or order of a health authority pursuant to chapter 441A of NRS, the Division may, if deemed necessary by the Administrator of the Division, take control of and ensure the safety of the medical records of the facility.

2. Subject to the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, the Division shall:

(a) Maintain the confidentiality of the medical records obtained pursuant to subsection 1.

(b) Share medical records obtained pursuant to subsection 1 with law enforcement agencies in this State and other governmental entities which have authority to license the facility or to license the owners or employees of the facility.

(c) Release a medical record obtained pursuant to subsection 1 to the patient or legal guardian of the patient who is the subject of the medical record.

3. The Board shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations for contracting with a person to maintain any medical records under the control of the Division pursuant to subsection 1 and for payment by the facility of the cost of maintaining medical records.

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

449.174 1. In addition to the grounds listed in NRS 449.160, the Division may deny a license to operate a facility, hospital, agency, program or home to an applicant or may suspend or revoke



the license of a licensee to operate such a facility, hospital, agency, program or home if:

- (a) The applicant or licensee has been convicted of:
  - (1) Murder, voluntary manslaughter or mayhem;
  - (2) Assault or battery with intent to kill or to commit sexual assault or mayhem;
  - (3) Sexual assault, statutory sexual seduction, incest, lewdness or indecent exposure, or any other sexually related crime that is punished as a felony;
  - (4) Prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punished as a misdemeanor, within the immediately preceding 7 years;
  - (5) A crime involving domestic violence that is punished as a felony;
  - (6) A crime involving domestic violence that is punished as a misdemeanor, within the immediately preceding 7 years;
  - (7) Abuse or neglect of a child or contributory delinquency;
  - (8) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, within the immediately preceding 7 years;
  - (9) Abuse, neglect, exploitation, isolation or abandonment of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;
  - (10) A violation of any provision of law relating to the State Plan for Medicaid or a law of any other jurisdiction that prohibits the same or similar conduct, within the immediately preceding 7 years;
  - (11) A violation of any provision of NRS 422.450 to 422.590, inclusive;
  - (12) A criminal offense under the laws governing Medicaid or Medicare, within the immediately preceding 7 years;
  - (13) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years;
  - (14) Any other felony involving the use or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon; or
  - (15) An attempt or conspiracy to commit any of the offenses listed in this paragraph, within the immediately preceding 7 years;



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

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

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

3. As used in this section:

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

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

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

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

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

449.210 1. In addition to the payment of the amount required by NRS 449.0308 ~~;~~ ~~except as otherwise provided in subsection 2 and NRS 449.24897,~~ *and any civil penalty imposed pursuant to subsection 4*, a person who operates a medical facility, ~~for~~ *facility for the dependent or a facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed* without a license issued by the Division is guilty of a misdemeanor.

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

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

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

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

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

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



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

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

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

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

~~3. Before the Division imposes an administrative sanction pursuant to subsection 2, the Division shall provide the operator of a facility for the dependent with reasonable notice. The notice must contain the legal authority, jurisdiction and reasons for the action to be taken. If the operator of a facility for the dependent wants to contest the action, the operator may file an appeal pursuant to the regulations of the State Board of Health adopted pursuant to NRS 449.165 and 449.170. Upon receiving notice of an appeal, the Division shall hold a hearing in accordance with those regulations. For the purpose of this subsection, it is no defense to the violation of operating a facility for the dependent without a license that the operator thereof subsequently licensed the facility in accordance with law.]~~ *If the Division believes that a person is operating a medical facility, facility for the dependent or a facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed 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 by personal delivery or by certified or registered mail, return receipt requested. The order is effective upon service.*

*3. If a person does not voluntarily cease operating a medical facility, facility for the dependent or a facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed without a license or apply for licensure within 30 days after the date of service of the order pursuant to subsection 2, the Division may bring an action in a court of competent jurisdiction pursuant to NRS 449.220.*

*4. Upon a showing by the Division that a person is operating a medical facility, facility for the dependent or a facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed without a license, a court of competent jurisdiction may:*

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



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

5. Unless otherwise required by federal law, the Division shall deposit all civil penalties collected pursuant to paragraph ~~(a)~~ ***(b)*** of 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 to 449.430, inclusive, and ~~449.935 to 449.965, inclusive,~~ ***sections 1.3, 1.6 and 1.9 of this act,*** and to protect the health, safety, well-being and property of the patients and residents of facilities in accordance with applicable state and federal standards.

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

449.220 1. The Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.030 to 449.2428, inclusive ~~1~~ ***1***, ***and sections 1.3, 1.6 and 1.9 of this act:***

- (a) Without first obtaining a license therefor; or
- (b) After his or her license has been revoked or suspended by the Division.

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

**Sec. 18.** 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 nursing facility administrator or administrator of a residential facility for groups 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 449.030 to 449.2428, inclusive, ***and sections 1.3, 1.6 and 1.9 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 nursing facility administrators or administrators of residential facilities for groups, 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 nursing facility administrator or administrator of a residential facility for groups 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. 19.** NRS 449.24897 is hereby repealed.

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







