

Senate Bill No. 298—Committee on
Health and Human Services

CHAPTER.....

AN ACT relating to residential facilities for groups; prescribing certain grounds for disciplinary action against a residential facility for groups; prohibiting certain persons from serving as the representative of a resident of a residential facility for groups for purposes relating to an involuntary discharge; imposing requirements governing certain contracts between a resident and a residential facility for groups; prohibiting the involuntary discharge of a resident of a residential facility for groups except for certain reasons; imposing requirements governing the procedure for such an involuntary discharge; requiring the State Long-Term Care Ombudsman to provide certain assistance concerning such a discharge; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing federal regulations require a state to ensure that providers of home and community-based services in a provider-owned or controlled residential setting, which includes a residential facility for groups, provide protections from eviction for residents that are comparable to protections provided under state landlord tenant law. (42 C.F.R. § 441.530(a)(1)(vi)(A)) Existing law defines a “residential facility for groups” as an establishment that furnishes food, overnight shelter, assistance and limited supervision to persons with an intellectual or physical disability or persons who are aged or infirm. (NRS 449.017) At least 30 days before involuntarily discharging a resident of a residential facility for groups, existing law requires the residential facility for groups to provide the resident and the State Long-Term Care Ombudsman with written notice of the intent to discharge the resident. Existing law also requires a residential facility for groups to allow the resident and any person authorized by the resident to meet in person with the administrator of the facility to discuss the proposed discharge within 10 days after providing written notice of the proposed discharge. (NRS 449A.114) **Sections 2-7** of this bill define certain terms relating to residential facilities for groups. **Section 8** of this bill prohibits the owner, agent or employee of a residential facility for groups or a provider of health care from acting as the representative of a resident in matters concerning the involuntary discharge of the resident, unless the person is related to the resident. **Section 9** of this bill requires a contract between a resident and a residential facility for groups for the delivery of services to include certain information. **Section 10** of this bill prohibits the transfer or involuntary discharge of a resident from a residential facility for groups except: (1) for certain reasons relating to the condition of the resident and the ability of the facility to meet his or her needs; (2) if the health or safety of the resident or another resident is endangered; (3) for a failure to pay contracted charges; or (4) if the facility ceases to operate. **Section 10** requires a residential facility for groups to: (1) provide certain additional notice before involuntarily discharging a resident for failure to pay contracted charges; and (2) attempt to resolve any issues that might result in the involuntary discharge of a resident before discharging the resident. **Section 11** of this bill prescribes the required contents of a written notice of intent to discharge a



resident. **Section 11** also requires a residential facility for groups to provide a resident or a representative of the resident with written notice of the location of a proposed discharge not later than 10 days after providing notice of the proposed discharge.

Section 12 of this bill requires a residential facility for groups to provide certain assistance concerning the discharge and relocation of a resident. Except in an emergency, **section 12** also requires a residential facility for groups to involve a resident and his or her representative in planning for the discharge of the resident and allow the resident or his or her representative to choose among available alternative placements. **Section 12** requires any emergency placement to be temporary and prohibits a residential facility for groups from requiring a resident to remain in any placement.

Sections 1 and 19 of this bill authorize the imposition of disciplinary action against a residential facility for groups that violates the provisions of **sections 4-12** of this bill and certain provisions of existing law concerning the rights of residents or the administrator of such a facility who aids or abets in such a violation. **Section 12** provides that a residential facility for groups is not subject to disciplinary action for an emergency transfer or discharge under certain circumstances.

Section 15 of this bill makes a conforming change to indicate the proper placement of **section 3** of this bill in the Nevada Revised Statutes. **Section 16** of this bill makes conforming changes to revise certain terminology.

Section 18 of this bill authorizes the State Long-Term Care Ombudsman to offer assistance to a residential facility for groups, a resident and his or her representative in planning for the discharge and relocation of the resident from the facility.

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

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

Section 1. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.029 to 449.2428, inclusive, upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410, ~~for~~ 449.029 to 449.245, inclusive, *or 449A.100 to 449A.124, inclusive, and sections 4 to 12, inclusive, 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 449.435 to 449.531, inclusive, and chapter 449A of NRS if such approval is required.

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

(g) Violation of the provisions of NRS 458.112.

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

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

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

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

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

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

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

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

↳ The facility shall make the information available to the public pursuant to NRS 449.2486.

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

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

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



Sec. 2. Chapter 449A of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 14, inclusive, of this act.

Sec. 3. *“Residential facility for groups” has the meaning ascribed to it in NRS 449.017.*

Sec. 4. *As used in sections 4 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 5, 6 and 7 of this act have the meanings ascribed to them in those sections.*

Sec. 5. *“Emergency” means circumstances where there is an imminent danger of death or serious physical harm to a resident.*

Sec. 6. *“Representative of the resident” means a natural person who is designated in writing by a resident to be his or her representative. The term includes, without limitation, a person given power of attorney to make decisions concerning health care for the resident pursuant to NRS 162A.700 to 162A.870, inclusive, or a person appointed as a guardian of the resident under the provisions of chapter 159 of NRS.*

Sec. 7. *“Resident” means a natural person who resides in a residential facility for groups.*

Sec. 8. *The owner, agent or employee of a residential facility for groups or a provider of health care must not serve as the representative of a resident for the purposes of sections 4 to 12, inclusive, of this act unless the owner, agent, employee or provider is related to the resident by consanguinity or affinity within the third degree.*

Sec. 9. *A contract between a resident and a residential facility for groups for the delivery of services to the resident must:*

1. Be entitled “Service Delivery Contract for Residential Facility for Groups”;

2. Be printed in at least 12 point type; and

3. Include, without limitation, the following information in the body of the contract or in a supporting document or attachment:

(a) The name, physical address and mailing address, if different, of the residential facility for groups;

(b) The name and mailing address of every person, partnership, association or corporation which establishes, conducts, manages or operates the residential facility for groups;

(c) The name and address of at least one person who is authorized to accept service on behalf of the parties described in paragraph (b);



(d) A telephone number or the address of the Internet website of:

(1) The Division that the resident or a representative of the resident may use to verify the status of the license of the residential facility for groups; and

(2) Each licensing board or other regulatory body that has issued a license to a provider of health care or other person required to be licensed who provides services to residents at the residential facility for groups that the resident or a representative of the resident may use to verify the status of the license of the provider of health care or other person;

(e) The duration of the contract;

(f) The manner in which the contract may be modified, amended or terminated;

(g) The base rate to be paid by the resident and a description of the services to be provided as part of the base rate;

(h) A fee schedule outlining the cost of any additional services;

(i) Any additional fee to be paid by the resident pursuant to the fee schedule and a description of any additional services to be provided as part of that fee, either directly by the residential facility for groups or by a third-party provider of services under contract with the facility;

(j) A statement affirming the freedom of the resident to receive services from a provider of services with whom the residential facility for groups does not have a contractual arrangement, which may also disclaim liability on the part of the residential facility for groups for any such services;

(k) The procedures and requirements for billing and payment under the contract;

(l) A statement detailing the criteria and procedures for admission, management of risk and termination of residency;

(m) The obligations of the resident in order to maintain residency and receive services, including, without limitation, compliance with the annual physical examination and assessment required by NRS 449.1845;

(n) A description of the process of the residential facility for groups for resolving the complaints of residents and contact information for the Aging and Disability Services Division and the Division of Public and Behavioral Health of the Department of Health and Human Services;

(o) The name and mailing address of any representative of the resident, if applicable; and

(p) Contact information for:



(1) The State Long-Term Care Ombudsman appointed pursuant to NRS 427A.125;

(2) The Nevada Disability Advocacy and Law Center, or its successor organization; or

(3) Other resources for legal aid or mental health assistance, as appropriate.

Sec. 10. *1. A residential facility for groups shall not transfer or involuntarily discharge a resident except where:*

(a) The health of the resident has improved sufficiently such that the resident no longer needs the services provided by the residential facility for groups;

(b) The health or safety of any person in the residential facility for groups is endangered;

(c) The resident has failed, after notice has been provided pursuant to subsection 2, to pay for contracted charges for a residency at or a service provided by the residential facility for groups;

(d) The services available to the resident at the residential facility for groups are no longer adequate to meet the needs of the resident, as determined using information from the annual physical examination and assessment conducted pursuant to NRS 449.1845; or

(e) The residential facility for groups ceases to operate.

2. At least 30 days before providing notice of intent to discharge a resident for failure to pay contracted charges pursuant to NRS 449A.114, a residential facility for groups shall notify the resident and any representative of the resident in writing of the delinquency. The facility shall allow the resident or his or her representative, as applicable, at least 15 days after such notice is provided to cure the delinquency.

3. Except as otherwise provided in this subsection, a residential facility for groups shall attempt to resolve with the resident or the representative of the resident, if applicable, any circumstances that, if not remedied, have the potential to result in an involuntary discharge of the resident. The facility shall document any such attempt in the file of the resident. All attempts at resolution pursuant to this subsection must occur before the resident is discharged, but may occur before or after the provision of notice pursuant to NRS 449A.114. A residential facility for groups is not required to comply with the requirements of this subsection in an emergency.



4. A residential facility for groups shall not transfer or involuntarily discharge a resident if such transfer or discharge presents an imminent danger of death to the resident.

Sec. 11. 1. Written notice of the intent of a residential facility for groups to discharge a resident provided pursuant to NRS 449A.114 must, in addition to the persons described in that section, be provided to the representative of the patient, where applicable, and must include, without limitation:

- (a) The reason for the proposed discharge; and
- (b) The date of the proposed discharge.

2. Except as otherwise provided in this subsection, written notice of the intent of a residential facility for groups to discharge a resident pursuant to NRS 449A.114 must be provided to a resident in a language that the resident or the representative of the resident, if applicable, is capable of reading. If the written notice is not provided in such a language, the facility must provide a translator who has been trained to assist the resident or the representative of the resident, if applicable, in the appeal process.

3. A residential facility for groups shall provide to a resident or a representative of the resident written notice of the location of the discharge of the resident not later than 10 days after providing written notice of the proposed intent to discharge the resident pursuant to NRS 449A.114.

Sec. 12. 1. Before discharging a resident, a residential facility for groups shall offer assistance to the resident and any representative of the resident concerning the discharge and relocation of the resident. Such assistance must include, without limitation, information on available alternative placements.

2. Except in an emergency, a residential facility for groups shall involve a resident and his or her representative, if applicable, in planning the relocation of the resident and allow the resident or his or her representative to choose among the available alternative placements. Any emergency placement must be temporary and must terminate when the resident or his or her representative is able to offer input on the final decision concerning the placement of the resident. A residential facility for groups shall not require a resident to remain in a temporary or permanent placement.

3. In nonemergency situations, and where possible in an emergency, a residential facility for groups that transfers or discharges a resident shall, in consultation with the resident and his or her representative, if applicable, design and implement a transition plan in advance of the transfer or discharge.



4. A residential facility for groups is not in violation of this section or subject to disciplinary action if:

(a) A resident returns to the facility after an emergency transfer or discharge; and

(b) The emergency transfer or discharge was necessary to address health care needs of the resident which are outside the scope of care that the facility is legally authorized to provide.

Secs. 13 and 14. (Deleted by amendment.)

Sec. 15. NRS 449A.001 is hereby amended to read as follows:

449A.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449A.007 to 449A.081, inclusive, *and section 3 of this act* have the meanings ascribed to them in those sections.

Sec. 16. NRS 449A.114 is hereby amended to read as follows:

449A.114 1. Except as otherwise provided in subsection 2, before a facility for intermediate care, facility for skilled nursing or residential facility for groups transfers a patient to another medical facility or facility for the dependent or discharges the patient *or resident* from the facility, the facility shall:

(a) At least 30 calendar days before transferring or discharging the patient, provide the patient and the Ombudsman with written notice of the intent to transfer or discharge the patient; and

(b) Within 10 calendar days after providing written notice to the patient *or resident* and the Ombudsman pursuant to paragraph (a), allow the patient and any person authorized by the patient the opportunity to meet in person with the administrator of the facility to discuss the proposed transfer or discharge.

2. The provisions of this section do not apply to:

(a) A voluntary discharge or transfer of a patient to another medical facility or facility for the dependent at the request of the patient; or

(b) The transfer of a patient to another facility because the condition of the patient necessitates an immediate transfer to a facility for a higher level of care.

3. As used in this section:

(a) "Facility for intermediate care" has the meaning ascribed to it in NRS 449.0038.

(b) "Facility for skilled nursing" has the meaning ascribed to it in NRS 449.0039.

(c) "Ombudsman" means the State Long-Term Care Ombudsman appointed pursuant to NRS 427A.125.

~~[(d) "Residential facility for groups" has the meaning ascribed to it in NRS 449.017.]~~



Sec. 17. (Deleted by amendment.)

Sec. 18. NRS 427A.125 is hereby amended to read as follows:
427A.125 1. The Office of the State Long-Term Care Ombudsman is hereby created within the Division.

2. The Administrator shall appoint the State Long-Term Care Ombudsman to advocate for the protection of the health, safety, welfare and rights of recipients. The Ombudsman is in the classified service of the State. The Ombudsman shall, under direction of the Administrator:

(a) Train advocates to:

(1) Receive, investigate and attempt to resolve complaints made by or on behalf of recipients.

(2) Investigate acts, practices, policies or procedures of any facility for long-term care, day care center, facility for long-term rehabilitation or provider of living arrangement services or any governmental agency which relates to such care or services and may adversely affect the health, safety, welfare or civil rights of recipients and report the results of the investigations to the Ombudsman and the Administrator.

(3) Record and analyze information and complaints about facilities for long-term care, day care centers, facilities for long-term rehabilitation and providers of living arrangement services to identify problems affecting recipients to whom they provide services.

(4) Provide for the support and development of recipient and family councils to protect the well-being and rights of recipients.

(5) Assist facilities for long-term care, day care centers, facilities for long-term rehabilitation and providers of living arrangement services to provide services to recipients in the manner set forth in paragraph (b).

(b) Develop a course of training to be made available to officers, directors and employees of a facility for long-term care, a day care center, a facility for long-term rehabilitation or a provider of living arrangement services to encourage such facilities and providers to provide services to recipients in a manner that allows the recipients to follow their own routine and make their own decisions concerning the daily activities in which to participate. The course must also provide information concerning how to provide services in that manner.

(c) Coordinate services within the Department which may affect recipients and prospective recipients to ensure that such services are made available to eligible persons.



(d) Provide information to interested persons and to the general public concerning the functions and activities of the Ombudsman.

(e) Report annually to the Administrator.

3. The Ombudsman may:

(a) Analyze, provide comment on and monitor the development and implementation of any federal, state or local governmental action, activity or program that relates to the protection of the health, safety, welfare and rights of recipients; ~~and~~

(b) Recommend changes to any federal, state or local governmental action, activity or program described in paragraph (a) without the prior approval of the Administrator ~~;~~ **and**

(c) Offer assistance to a residential facility for groups, a resident and any representative of the resident in planning for the discharge and relocation of the resident pursuant to section 12 of this act in order to assure the safe and orderly transition of the resident and to protect the health, safety, welfare and rights of the resident. As used in this paragraph:

(1) "Representative of the resident" has the meaning ascribed to it in section 6 of this act.

(2) "Resident" has the meaning ascribed to it in section 7 of this act.

(3) "Residential facility for groups" has the meaning ascribed to it in NRS 449.017.

Sec. 19. NRS 654.190 is hereby amended to read as follows:

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

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

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

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

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.029 to 449.2428, inclusive, ***or 449A.100 to 449A.124, inclusive, and sections 4 to 12, inclusive, of this act,*** as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.



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

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

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

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

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

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

Sec. 20. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 19, inclusive, of this act become effective:

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

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



