

SENATE BILL NO. 379—SENATOR KIECKHEFER

MARCH 21, 2011

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing the inspection by the Health Division of the Department of Health and Human Services of certain facilities and offices regulated by the Health Division. (BDR 40-1012)

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 public health; requiring the Health Division of the Department of Health and Human Services, under certain circumstances, to extend the period between periodic inspections and to reduce certain fees for certain facilities and offices regulated by the Health Division; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes the Health Division of the Department of Health and
2 Human Services to charge and collect a fee for a license to operate a medical
3 facility, facility for the dependent or a home for individual residential care in this
4 State and to charge and collect a fee for a permit which authorizes certain facilities
5 and offices to offer to patients the service of general anesthesia, conscious sedation
6 or deep sedation. Existing law also authorizes the Health Division to inspect and
7 investigate such facilities and homes to ensure that the facilities and homes are in
8 compliance with certain federal and state laws, regulations and standards.
9 Furthermore, existing law requires facilities and offices that offer to patients the
10 service of general anesthesia, conscious sedation or deep sedation and surgical
11 centers for ambulatory patients to be inspected annually by the Health Division.
12 (NRS 449.050, 449.060, 449.080, 449.150, 449.230, 449.235, 449.435-449.448) If
13 a medical facility, facility for the dependent or a home for individual residential
14 care passes a periodic inspection by the Health Division that is required by existing
15 law, **section 2** of this bill: (1) requires the Health Division to conduct the next
16 consecutive periodic inspection of the facility or home after the expiration of a
17 period that is equal to one and one-half times the usual period between inspections
18 that is required by state law, or that is equal to the period which is required by
19 federal law or regulation, whichever is shorter; and (2) requires the Health Division
20 to reduce by 25 percent certain fees for the licensing of the facility or home.



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21 **Section 3** of this bill sets forth similar provisions for a surgical center for
22 ambulatory patients or an office of a physician or a facility which is required to
23 obtain a permit to offer patients a service of general anesthesia, conscious sedation
24 or deep sedation.

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 the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2. 1.** *Notwithstanding any other provision of this*
4 *chapter and except as otherwise provided in this section, if a*
5 *medical facility, facility for the dependent or home for individual*
6 *residential care passes a periodic inspection by the Health*
7 *Division required by this chapter:*

8 (a) *The Health Division shall conduct the next consecutive*
9 *periodic inspection of the facility or home after the expiration of a*
10 *period that is equal to one and one-half times the period between*
11 *inspections which is otherwise required by state law or regulation,*
12 *or that is equal to the period between inspections which is required*
13 *by federal law or regulation, whichever is shorter; and*

14 (b) *Notwithstanding the length of the period of the inspection*
15 *required pursuant to paragraph (a), the Health Division shall*
16 *reduce by 25 percent the amount of the fee charged by the Health*
17 *Division for the next consecutive renewal of the license of the*
18 *facility or home pursuant to NRS 449.060.*

19 2. *The provisions of this section do not apply to an inspection*
20 *of a medical facility, facility for the dependent or home for*
21 *individual residential care if:*

22 (a) *The inspection is conducted upon the receipt of an*
23 *application for a license or upon the receipt of a complaint*
24 *pursuant to NRS 449.150;*

25 (b) *The inspection is conducted to allow the facility or home to*
26 *correct any deficiencies discovered during a previous inspection;*

27 (c) *The inspection is conducted after a change is made to the*
28 *license of the facility or home, including, without limitation, a*
29 *change in the person who is licensed to operate or maintain the*
30 *facility or home or in the ownership of the facility or home;*

31 (d) *The facility or home has had a substantiated complaint*
32 *filed against it within the immediately preceding 12 months;*

33 (e) *The inspection is conducted pursuant to NRS 449.230; or*

34 (f) *The inspection is conducted pursuant to NRS 449.235.*

35 3. *The Health Division shall establish by regulation the*
36 *manner in which to determine whether a medical facility, facility*



1 *for the dependent or home for individual residential care passes a*
2 *periodic inspection for the purposes of subsection 1.*

3 *4. The provisions of this section do not exempt any medical*
4 *facility, facility for the dependent or home for individual*
5 *residential care from compliance with any applicable federal law*
6 *or regulation governing the inspection or investigation of such*
7 *facilities or homes.*

8 **Sec. 3. 1. Notwithstanding any other provision of this**
9 **chapter and except as otherwise provided in this subsection, if an**
10 **office of a physician or a facility which is required to obtain a**
11 **permit pursuant to NRS 449.442 or a surgical center for**
12 **ambulatory patients passes a periodic inspection by the Health**
13 **Division required by this chapter:**

14 *(a) The Health Division shall conduct the next consecutive*
15 *periodic inspection of the office, facility or surgical center for*
16 *ambulatory patients after the expiration of a period that is equal to*
17 *one and one-half times the period between inspections which is*
18 *otherwise required by state law or regulation, or that is equal to*
19 *the period between inspections which is required by federal law or*
20 *regulation, whichever is shorter; and*

21 *(b) Notwithstanding the length of the period of the inspection*
22 *required pursuant to paragraph (a), the Health Division shall*
23 *reduce by 25 percent the amount of the fee charged by the Health*
24 *Division for the next consecutive renewal of:*

25 *(1) A permit issued to an office of a physician or facility*
26 *pursuant to NRS 449.444.*

27 *(2) A license issued to a surgical center for ambulatory*
28 *patients pursuant to NRS 449.050.*

29 *2. The provisions of this section do not apply to an inspection*
30 *of an office of a physician or a facility which is required to obtain*
31 *a permit pursuant to NRS 449.442 or a surgical center for*
32 *ambulatory patients if:*

33 *(a) The inspection is conducted upon the receipt of an*
34 *application for a license or a permit or upon the receipt of a*
35 *complaint;*

36 *(b) The inspection is conducted to allow the office of a*
37 *physician, facility or surgical center for ambulatory patients to*
38 *correct any deficiencies discovered during a previous inspection;*

39 *(c) The inspection is conducted after a change is made to the*
40 *license or permit of the office, facility or surgical center for*
41 *ambulatory patients, including, without limitation, a change in*
42 *the person who has a license or permit to operate or maintain the*
43 *office, facility or surgical center for ambulatory patients or in the*
44 *ownership of the office, facility or surgical center for ambulatory*
45 *patients;*



1 (d) *The office, facility or surgical center for ambulatory*
2 *patients has had a substantiated complaint filed against it within*
3 *the immediately preceding 12 months; or*

4 (e) *The inspection is an unannounced on-site inspection*
5 *conducted pursuant to NRS 449.446.*

6 3. *The Health Division shall establish by regulation the*
7 *manner in which to determine whether an office of a physician or*
8 *a facility which is required to obtain a permit pursuant to NRS*
9 *449.442 or a surgical center for ambulatory patients passes a*
10 *periodic inspection for the purposes of subsection 1.*

11 4. *The provisions of this section do not exempt any office of a*
12 *physician or a facility which is required to obtain a permit*
13 *pursuant to NRS 449.442 or a surgical center for ambulatory*
14 *patients from compliance with any applicable federal law or*
15 *regulation governing the inspection or investigation of such an*
16 *office or facility or surgical center for ambulatory patients.*

17 **Sec. 4.** NRS 449.050 is hereby amended to read as follows:

18 449.050 1. Except as otherwise provided in subsection 2 ~~§~~
19 *and section 2 of this act*, each application for a license must be
20 accompanied by such fee as may be determined by regulation of the
21 Board. The Board may, by regulation, allow or require payment of a
22 fee for a license in installments and may fix the amount of each
23 payment and the date that the payment is due.

24 2. A facility for the care of adults during the day is exempt
25 from the fees imposed by the Board pursuant to this section.

26 3. ~~¶~~ *Except as otherwise provided in section 2 of this act,*
27 *the* fee imposed by the Board for a facility for transitional living for
28 released offenders must be based on the type of facility that is being
29 licensed and must be calculated to produce the revenue estimated to
30 cover the costs related to the license, but in no case may a fee for a
31 license exceed the actual cost to the Health Division of issuing or
32 renewing the license.

33 4. If an application for a license for a facility for transitional
34 living for released offenders is denied, any amount of the fee paid
35 pursuant to this section that exceeds the expenses and costs incurred
36 by the Health Division must be refunded to the applicant.

37 **Sec. 5.** NRS 449.070 is hereby amended to read as follows:

38 449.070 The provisions of NRS 449.001 to 449.240, inclusive,
39 *and section 2 of this act* do not apply to:

40 1. Any facility conducted by and for the adherents of any
41 church or religious denomination for the purpose of providing
42 facilities for the care and treatment of the sick who depend solely
43 upon spiritual means through prayer for healing in the practice of
44 the religion of the church or denomination, except that such a



1 facility shall comply with all regulations relative to sanitation and
2 safety applicable to other facilities of a similar category.

3 2. Foster homes as defined in NRS 424.014.

4 3. Any medical facility or facility for the dependent operated
5 and maintained by the United States Government or an agency
6 thereof.

7 **Sec. 6.** NRS 449.160 is hereby amended to read as follows:

8 449.160 1. The Health Division may deny an application for
9 a license or may suspend or revoke any license issued under the
10 provisions of NRS 449.001 to 449.240, inclusive, *and section 2 of*
11 *this act* upon any of the following grounds:

12 (a) Violation by the applicant or the licensee of any of the
13 provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, *and*
14 *section 2 of this act* or of any other law of this State or of the
15 standards, rules and regulations adopted thereunder.

16 (b) Aiding, abetting or permitting the commission of any illegal
17 act.

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

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

23 (e) Failure of the applicant to obtain written approval from the
24 Director of the Department of Health and Human Services as
25 required by NRS 439A.100 or as provided in any regulation adopted
26 pursuant to this chapter, if such approval is required.

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

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

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

34 (b) Is ordered to but fails to abate a nuisance pursuant to NRS
35 244.360, 244.3603 or 268.4124; or

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

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



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

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

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

7 ➔ The facility shall make the information available to the public
8 pursuant to NRS 449.2486.

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

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

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

17 **Sec. 7.** NRS 449.441 is hereby amended to read as follows:

18 449.441 The provisions of NRS 449.435 to 449.448, inclusive,
19 *and section 3 of this act* do not apply to an office of a physician or a
20 facility that provides health care, other than a medical facility, if the
21 office of a physician or the facility only administers a medication to
22 a patient to relieve the patient's anxiety or pain and if the
23 medication is not given in a dosage that is sufficient to induce in a
24 patient a controlled state of depressed consciousness or
25 unconsciousness similar to general anesthesia, deep sedation or
26 conscious sedation.

27 **Sec. 8.** NRS 449.446 is hereby amended to read as follows:

28 449.446 1. ~~The~~ *Except as otherwise provided in section 3*
29 *of this act, the* Health Division shall conduct annual and
30 unannounced on-site inspections of each office of a physician or a
31 facility that provides health care, other than a medical facility,
32 which holds a permit issued pursuant to NRS 449.443 and each
33 surgical center for ambulatory patients which holds a license issued
34 pursuant to this chapter.

35 2. An inspection conducted pursuant to this section must focus
36 on the infection control practices and policies of the surgical center
37 for ambulatory patients, the office or the facility that is the subject
38 of the inspection. The Health Division may, as it deems necessary,
39 conduct a more comprehensive inspection of a surgical center,
40 office or facility.

41 3. Upon completion of an inspection, the Health Division shall:

42 (a) Compile a report of the inspection, including each deficiency
43 discovered during the inspection, if any; and



1 (b) Forward a copy of the report to the surgical center for
2 ambulatory patients, the office of the physician or the facility where
3 the inspection was conducted.

4 4. If a deficiency is indicated in the report, the surgical center
5 for ambulatory patients, the office of the physician or the facility
6 shall correct each deficiency indicated in the report in the manner
7 prescribed by the Board pursuant to NRS 449.448.

8 5. The Health Division shall annually prepare and submit to the
9 Legislative Committee on Health Care and the Legislative
10 Commission a report which includes:

11 (a) The number and frequency of inspections conducted
12 pursuant to this section;

13 (b) A summary of deficiencies or other significant problems
14 discovered while conducting inspections pursuant to this section and
15 the results of any follow-up inspections; and

16 (c) Any other information relating to the inspections as deemed
17 necessary by the Legislative Committee on Health Care or the
18 Legislative Commission.

19 **Sec. 9.** NRS 449.447 is hereby amended to read as follows:

20 449.447 1. If an office of a physician or a facility that
21 provides health care, other than a medical facility, violates the
22 provisions of NRS 449.435 to 449.448, inclusive, *and section 3 of*
23 *this act* or the regulations adopted pursuant thereto, or fails to
24 correct a deficiency indicated in a report pursuant to NRS 449.446,
25 the Health Division, in accordance with the regulations adopted
26 pursuant to NRS 449.448, may take any of the following actions:

27 (a) Decline to issue or renew a permit;

28 (b) Suspend or revoke a permit; or

29 (c) Impose an administrative penalty of not more than \$1,000
30 per day for each violation, together with interest thereon at a rate not
31 to exceed 10 percent per annum.

32 2. The Health Division may review a report submitted pursuant
33 to NRS 630.30665 or 633.524 to determine whether an office of a
34 physician or a facility is in violation of the provisions of NRS
35 449.435 to 449.448, inclusive, *and section 3 of this act* or the
36 regulations adopted pursuant thereto. If the Health Division
37 determines that such a violation has occurred, the Health Division
38 shall immediately notify the appropriate professional licensing
39 board of the physician.

40 3. If a surgical center for ambulatory patients violates the
41 provisions of NRS 449.435 to 449.448, inclusive, *and section 3 of*
42 *this act* or the regulations adopted pursuant thereto, or fails to
43 correct a deficiency indicated in a report pursuant to NRS 449.446,
44 the Health Division may impose administrative sanctions pursuant
45 to NRS 449.163.



1 **Sec. 10.** This act becomes effective on July 1, 2011.

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