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ASSEMBLY BILL NO. 313—ASSEMBLYWOMEN GIUNCHIGLIANI  
AND KOIVISTO

MARCH 13, 2003

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Referred to Committee on Health and Human Services

SUMMARY—Makes various changes concerning certain health care facilities employing nurses. (BDR 40-729)

FISCAL NOTE: Effect on Local Government: Yes.  
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§ 17-22)  
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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

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AN ACT relating to health care facilities; requiring certain health care facilities employing nurses to establish a staffing plan and to provide adequate staffing; providing certain minimum ratios for nurse staffing; requiring the keeping of certain records concerning statistics relating to patients and staffing; establishing maximum limits on work hours and providing exceptions to those limits; requiring such a health care facility to establish policies pursuant to which direct care nurses may refuse a work assignment; prohibiting such a health care facility from taking certain actions against employees of the facility under certain circumstances; requiring public disclosure of certain information relating to the staffing plan; providing administrative and criminal penalties; and providing other matters properly relating thereto.

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 to 35, inclusive, of this  
3 act.

4       **Sec. 2.** *As used in sections 2 to 35, inclusive, of this act,*  
5 *unless the context otherwise requires, the words and terms defined*  
6 *in sections 3 to 16, inclusive, of this act have the meanings*  
7 *ascribed to them in those sections.*

8       **Sec. 3.** *“Acuity system” means an established measurement*  
9 *system or method which:*

10       1. *Predicts the requirements for nursing care for a patient*  
11 *based on the severity of the illness of the patient, the need for*  
12 *specialized equipment and technology, the intensity of nursing*  
13 *interventions required, and the complexity of clinical nursing*  
14 *judgment needed to design, carry out and evaluate the plan for*  
15 *nursing care for the patient;*

16       2. *Details the amount of daily nursing care needed, both in*  
17 *the number of nurses and in the skill mix of nursing personnel*  
18 *required, for each patient in a unit;*

19       3. *Is stated in terms that can be readily used and understood*  
20 *by the direct care nursing staff; and*

21       4. *Takes into consideration the services for patient care*  
22 *provided by health care employees other than licensed nurses.*

23       **Sec. 4.** *“Direct care nurse” means a registered nurse who*  
24 *has principal responsibility to oversee or carry out medical*  
25 *regimens or nursing care for one or more patients.*

26       **Sec. 5.** *“Documented staffing plan” means a detailed written*  
27 *plan setting forth the minimum number, skill mix and*  
28 *classification of licensed nurses required in each unit in a health*  
29 *care facility for a given year, based on reasonable projections*  
30 *derived from the patient census and average acuity level within*  
31 *each unit during the previous year, if applicable, the size and*  
32 *geography of the unit, the nature of services provided, and any*  
33 *foreseeable changes in the size or function of the unit during the*  
34 *current year.*

35       **Sec. 6.** *“Health care employee” means an employee at a*  
36 *health care facility who provides health care services, including,*  
37 *without limitation, a direct care nurse.*

38       **Sec. 7.** *“Health care facility” means:*

39       1. *A hospital;*

40       2. *An independent center for emergency care;*

41       3. *A psychiatric hospital;*

42       4. *A rural hospital; and*

43       5. *A surgical center for ambulatory patients.*

44       **Sec. 8.** *“Nurse” means a person licensed pursuant to chapter*  
45 *632 of NRS to practice nursing.*



1       **Sec. 9.** *“Nursing care” means care which falls within the*  
2 *practice of nursing or which is otherwise encompassed within*  
3 *recognized professional standards for the practice of nursing,*  
4 *including, without limitation, assessment, nursing diagnosis,*  
5 *planning, intervention, evaluation and patient advocacy.*

6       **Sec. 10.** *“On duty” means a work status pursuant to which a*  
7 *person is required to be available and ready to perform services*  
8 *upon request within, or on behalf of, a health care facility,*  
9 *including any rest periods or breaks during which the ability of*  
10 *the person to leave the health care facility is expressly restricted or*  
11 *restricted because of work-related circumstances that are beyond*  
12 *the control of the person.*

13       **Sec. 11.** *“Practice of nursing” has the meaning ascribed to it*  
14 *in NRS 632.0169.*

15       **Sec. 12.** *“Registered nurse” has the meaning ascribed to it in*  
16 *NRS 632.019.*

17       **Sec. 13.** *“Rest period” means a period in which a person may*  
18 *be required to remain on the premises of a health care facility but*  
19 *is free of all restraint or duty, or responsibility for work or duty.*

20       **Sec. 14.** *“Skill mix” means a mix of direct care nurses based*  
21 *on the differences in their licensing, specialty and experience.*

22       **Sec. 15.** *“Staffing level” means the actual numerical nurse-*  
23 *to-patient ratio by licensed nurse classification within a unit.*

24       **Sec. 16.** *“Unit” means a component within a health care*  
25 *facility for providing patient care.*

26       **Sec. 17.** *A health care facility shall ensure that it is staffed in*  
27 *accordance with sections 18 to 24, inclusive, of this act, so as to*  
28 *provide sufficient, appropriately qualified nursing staff of each*  
29 *classification in each unit within the health care facility to meet*  
30 *the individualized needs for nursing care of the patients therein.*

31       **Sec. 18.** *1. As a condition of licensing, a health care facility*  
32 *shall annually submit to the Health Division a documented*  
33 *staffing plan and a written certification that the documented*  
34 *staffing plan is sufficient to provide adequate and appropriate*  
35 *delivery of health care services to patients for the ensuing year.*  
36 *The documented staffing plan must:*

37       *(a) Include staffing ratios that meet the minimum*  
38 *requirements set forth in section 19 of this act;*

39       *(b) Be adequate to meet all other requirements related to*  
40 *staffing established by specific statute, and any regulations*  
41 *adopted pursuant thereto, that may be applicable;*

42       *(c) Identify and use an acuity system that has been approved*  
43 *by the Health Division to address fluctuations in actual acuity*  
44 *levels of patients and requirements for nursing care that require*



- 1 *increased staffing levels above the minimum staffing ratios set*
- 2 *forth in the plan;*
- 3 *(d) Factor in other activities in each unit, including, without*
- 4 *limitation, discharges, transfers and admissions, and*
- 5 *administrative and support tasks, that are expected to be done by*
- 6 *direct care nurses in addition to the provision of nursing care;*
- 7 *(e) Identify the assessment tool used to validate the acuity*
- 8 *system relied upon in the plan;*
- 9 *(f) Identify the system or method that will be used to document*
- 10 *actual staffing within each unit on a daily basis;*
- 11 *(g) If applicable, include a written assessment of the accuracy*
- 12 *of the plan during the previous year based on the actual staffing*
- 13 *needs during that year; and*
- 14 *(h) Identify each classification of the nursing staff referenced*
- 15 *in the plan and include a statement that sets forth the minimum*
- 16 *qualifications for each such classification.*
- 17 **2. A health care facility shall develop its documented staffing**
- 18 **plan in consultation with the direct care nursing staff for each**
- 19 **unit in the health care facility or, if the direct care nursing staff is**
- 20 **represented by recognized or certified collective bargaining**
- 21 **representatives, with the representatives of the direct care nursing**
- 22 **staff.**
- 23 **3. As used in this section, “assessment tool” means a**
- 24 **measurement system pursuant to which the accuracy of an acuity**
- 25 **system is reviewed by comparing the staffing level in each unit**
- 26 **against actual requirements for patient nursing care.**
- 27 **Sec. 19. 1. Except as otherwise provided in this section, a**
- 28 **documented staffing plan must include the following ratios of the**
- 29 **maximum number of patients that may be assigned to a direct care**
- 30 **nurse in each unit in the health care facility:**
- 31 **(a) A ratio of one direct care nurse to one patient in each:**
- 32 **(1) Operating room; and**
- 33 **(2) Trauma emergency unit.**
- 34 **(b) A ratio of one direct care nurse to two patients in each:**
- 35 **(1) Critical care unit;**
- 36 **(2) Intensive care unit;**
- 37 **(3) Labor and delivery unit; and**
- 38 **(4) Post anesthesia unit.**
- 39 **(c) A ratio of one direct care nurse to three patients in each:**
- 40 **(1) Antepartum unit;**
- 41 **(2) Emergency room;**
- 42 **(3) Pediatric unit;**
- 43 **(4) Intermediate units, also commonly known as “step-**
- 44 **down units”; and**
- 45 **(5) Telemetry units.**



- 1 (d) *A ratio of one direct care nurse to four patients in each:*
- 2 (1) *Intermediate care nursery; and*
- 3 (2) *Medical, surgical and acute care psychiatric unit.*
- 4 (e) *A ratio of one direct care nurse to five patients in each*
- 5 *rehabilitation unit.*
- 6 (f) *A ratio of one direct care nurse to six patients in each:*
- 7 (1) *Postpartum unit, including units providing care to not*
- 8 *more than three couplets; and*
- 9 (2) *Nursery for well babies.*
- 10 (g) *Such other ratios, as determined by the Board, for any*
- 11 *units not otherwise identified in this subsection, including, without*
- 12 *limitation, psychiatric units in health care facilities other than*
- 13 *hospitals that provide acute care.*
- 14 2. *A nurse, including a nurse administrator or supervisor,*
- 15 *who does not have principal responsibility for caring for a patient*
- 16 *as would a direct care nurse must not be included in the*
- 17 *calculation of any nurse-to-patient ratios established pursuant to*
- 18 *subsection 1.*
- 19 3. *A health care facility shall adjust its minimum staffing*
- 20 *ratios as necessary to reflect the need for additional direct care*
- 21 *nurses to ensure that each unit within the health care facility is*
- 22 *adequately staffed. Such an adjustment must be made in*
- 23 *accordance with an approved acuity system.*
- 24 4. *Notwithstanding any provision of this section to the*
- 25 *contrary, the Board may, by regulation, establish higher nurse-to-*
- 26 *patient ratios than those ratios set forth in this section.*
- 27 5. *As used in this section, "critical care unit" means a unit in*
- 28 *a hospital established to safeguard and protect patients whose*
- 29 *severity of medical conditions require continuous monitoring and*
- 30 *complex nursing intervention.*
- 31 **Sec. 20.** *The Health Division shall adopt:*
- 32 1. *Regulations prescribing the methods by which it will*
- 33 *approve an acuity system for use by a health care facility,*
- 34 *including, without limitation, a system for class approval of acuity*
- 35 *systems; and*
- 36 2. *Such other regulations as are necessary to carry out the*
- 37 *provisions of sections 2 to 35, inclusive, of this act, including,*
- 38 *without limitation, regulations concerning the submission of a*
- 39 *documented staffing plan by a health care facility.*
- 40 **Sec. 21.** 1. *The skill mix reflected in the documented*
- 41 *staffing plan of a health care facility must ensure that all the*
- 42 *following elements of the nursing process are performed in the*
- 43 *planning and delivery of nursing care for each patient:*
- 44 (a) *Assessment;*
- 45 (b) *Nursing diagnosis;*



- 1       (c) *Planning;*
- 2       (d) *Intervention;*
- 3       (e) *Evaluation; and*
- 4       (f) *Patient recovery.*

5       2. *Registered nurses must constitute at least 50 percent of the*  
6 *direct care nurses included in the documented staffing plan of a*  
7 *health care facility.*

8       3. *The skill mix in a documented staffing plan for a health*  
9 *care facility must not require or assume that any functions*  
10 *relating to nursing care required by chapter 632 of NRS, and any*  
11 *regulations adopted pursuant thereto, or any other recognized*  
12 *standards for the practice of nursing, required to be performed by*  
13 *a licensed nurse are to be performed by unlicensed persons.*

14       **Sec. 22.** 1. *As a condition of licensing, a health care facility*  
15 *shall at all times be staffed in accordance with its documented*  
16 *staffing plan, except that nothing in this subsection precludes a*  
17 *health care facility from providing higher direct care nurse-to-*  
18 *patient staffing ratios than the ratios otherwise established in its*  
19 *documented staffing plan.*

20       2. *A health care facility may assign a nurse to a unit or a*  
21 *clinical area, and include the nurse in the count of assigned*  
22 *nursing staff for the purposes of compliance with its minimum*  
23 *required staffing levels, if:*

24       (a) *The nurse is appropriately licensed for assignment to that*  
25 *unit or clinical area;*

26       (b) *The health care facility has provided prior orientation to*  
27 *the nurse before assigning the nurse to that unit or clinical area;*  
28 *and*

29       (c) *The health care facility has verified that the nurse is*  
30 *capable of providing competent nursing care to the patients in that*  
31 *unit or clinical area.*

32       **Sec. 23.** 1. *As a condition of licensure, a health care*  
33 *facility shall maintain accurate daily records showing for each*  
34 *unit:*

35       (a) *The number of patients admitted, released and present in*  
36 *the unit;*

37       (b) *The individual acuity level of each patient present in the*  
38 *unit; and*

39       (c) *The identity and duty hours of each direct care nurse in the*  
40 *unit.*

41       2. *As a condition of licensure, a health care facility shall*  
42 *maintain daily statistics, by unit, of mortality, morbidity, infection,*  
43 *accident, injury and medical errors.*

44       3. *Records required to be kept pursuant to this section must*  
45 *be:*



- 1 (a) *Maintained for at least 7 years; and*
- 2 (b) *Made available upon request to the Health Division and*
- 3 *the public, except that records released to the public must not*
- 4 *contain any personal identifying information, other than the*
- 5 *acuity level, concerning a person.*

6 **Sec. 24.** *1. Notwithstanding any specific statute to the*

7 *contrary, and except as otherwise provided in this section, a health*

8 *care facility shall not mandate or otherwise directly or indirectly*

9 *require a health care employee to work or to be in on-duty status*

10 *in excess of:*

- 11 (a) *The scheduled work shift or period of duty;*
- 12 (b) *Twelve hours in a 24-hour period; or*
- 13 (c) *Eighty hours in a 14-consecutive-day period.*

14 *Nothing in this subsection is intended to prohibit a health care*

15 *employee from voluntarily working overtime in excess of the*

16 *limitations established in this subsection.*

17 *2. A health care facility may require a health care employee*

18 *to work mandatory overtime during a declared state of emergency*

19 *in which the health care facility is requested, or otherwise may*

20 *reasonably be expected, to provide an exceptional level of*

21 *emergency or other medical services to the community, except that*

22 *the health care facility shall not require a health care employee to*

23 *work or to be in on-duty status more than the maximum number*

24 *of hours set forth in subsection 1 unless the health care facility*

25 *has first made reasonable efforts to fill its immediate staffing*

26 *needs through alternative efforts, including requesting off-duty*

27 *staff to report to work voluntarily, requesting staff who are on duty*

28 *to volunteer for overtime hours and recruiting per diem and*

29 *registry staff to report to work.*

30 *3. Except as otherwise provided in this section, a health care*

31 *employee shall not work or be on duty for more than 16 hours in*

32 *any 24-hour period. If a health care employee works 16 hours in*

33 *any 24-hour period, the health care employee must have at least 8*

34 *consecutive hours off duty before being required to return to duty.*

35 *A health care facility shall not require such an employee to work*

36 *or to be on duty more than 7 consecutive days without at least one*

37 *consecutive 24-hour period off duty.*

38 *4. During a declared state of emergency in which a health*

39 *care facility is requested, or otherwise may reasonably be expected,*

40 *to provide an exceptional level of emergency or other medical*

41 *services to the community, the limitation on maximum hours set*

42 *forth in subsection 3 may be lifted as follows:*

- 43 (a) *A health care employee may work or remain on duty for*
- 44 *more than the maximum hours if:*



1           (1) *The decision to work the additional time is voluntarily*  
2 *made by the health care employee; and*

3           (2) *The health care employee is given at least one*  
4 *uninterrupted 4-hour rest period before the completion of the first*  
5 *16 hours of duty and an uninterrupted 8-hour rest period at the*  
6 *completion of 24 hours of duty.*

7           (b) *A health care employee who has been on duty for more*  
8 *than 16 hours in a 24-hour period who informs the health care*  
9 *facility that he needs an immediate rest period must be relieved*  
10 *from duty as soon thereafter as possible, consistent with the safety*  
11 *needs of the patients, and given at least 8 uninterrupted hours off*  
12 *duty before being required to return for duty.*

13           5. *Mandatory overtime may be required, and the limitations*  
14 *of maximum overtime may be lifted, only for the duration of the*  
15 *declared state of emergency or for the period that the health care*  
16 *facility is playing a direct role in responding to medical needs of*  
17 *the community resulting from the declared state of emergency,*  
18 *whichever is shorter.*

19           6. *Notwithstanding any provision of this section to the*  
20 *contrary, a health care facility may enter into collective*  
21 *bargaining agreements negotiated on behalf of the health care*  
22 *employees by a bona fide labor organization that include a work*  
23 *shift schedule or overtime program that provides for mandatory*  
24 *hours on duty in excess of the number of hours permitted*  
25 *pursuant to this section provided that adequate measures are*  
26 *included in the agreement to ensure against excessive fatigue of*  
27 *the affected employees.*

28           7. *As used in this section:*

29           (a) *“Declared state of emergency” means an officially*  
30 *designated state of emergency that has been declared by a federal,*  
31 *state or local government official having authority to declare a*  
32 *state of emergency, but does not include a state of emergency*  
33 *which results from a labor dispute in the health care industry.*

34           (b) *“Mandate” means a request which, if refused or declined,*  
35 *may result in discipline, discharge, loss of promotion or other*  
36 *adverse employment consequence.*

37           (c) *“Off-duty” means that the person has no restriction placed*  
38 *on his whereabouts and is free of all restraint or duty on behalf of*  
39 *the health care facility.*

40           **Sec. 25. 1.** *As a condition of licensure, a health care*  
41 *facility shall adopt and disseminate to its direct care nursing staff*  
42 *a written policy that details the circumstances under which a*  
43 *direct care nurse may refuse a work assignment, including a work*  
44 *assignment that involves the continuation of on-duty status.*





- 1       2. *The written policy concerning work assignments must, at a*  
2 *minimum, allow a direct care nurse to refuse an assignment:*  
3       (a) *For which the direct care nurse is not prepared because of*  
4 *lack of education, training or experience to fulfill safely and*  
5 *without compromising or jeopardizing the safety of the patients,*  
6 *the ability of the direct care nurse to meet foreseeable needs of the*  
7 *patients and the licensure of the direct care nurse;*  
8       (b) *For which the direct care nurse had volunteered to work as*  
9 *overtime work if he subsequently determines that his level of*  
10 *fatigue or decreased alertness, or both, would compromise or*  
11 *jeopardize the safety of the patients or the licensure of the direct*  
12 *care nurse; or*  
13       (c) *Which otherwise violates any provision of sections 2 to 35,*  
14 *inclusive, of this act.*  
15       3. *The written policy concerning work assignments must*  
16 *contain:*  
17       (a) *Reasonable requirements for prior notice to the supervisor*  
18 *of the direct care nurse of the request, including supporting*  
19 *reasons, by the direct care nurse to be relieved of the work*  
20 *assignment;*  
21       (b) *Reasonable requirements which provide, where feasible, an*  
22 *opportunity for the supervisor to review a request by the direct*  
23 *care nurse to be relieved of the work assignment, including any*  
24 *specific conditions supporting the request, and based upon that*  
25 *review:*  
26           (1) *Relieve the direct care nurse of the work assignment as*  
27 *requested; or*  
28           (2) *Deny the request; and*  
29       (c) *A process pursuant to which a direct care nurse may*  
30 *exercise his right to refuse a work assignment when the supervisor*  
31 *denies the request of the nurse to be relieved of the work*  
32 *assignment if:*  
33           (1) *The supervisor rejected the request without proposing a*  
34 *remedy or, if a remedy is proposed, the proposed remedy would be*  
35 *inadequate or untimely;*  
36           (2) *The process for filing a complaint with the Health*  
37 *Division or any other appropriate regulatory entity, including any*  
38 *investigation that would be required, would be untimely to address*  
39 *the concerns of the direct care nurse in refusing a work*  
40 *assignment; and*  
41           (3) *The direct care nurse in good faith believes that the*  
42 *work assignment meets the conditions established in the written*  
43 *policy justifying refusal.*  
44       **Sec. 26. 1. A health care facility shall not penalize,**  
45 *discriminate or retaliate in any manner against any person with*



1 *respect to compensation, terms, conditions or privileges of*  
2 *employment who, in good faith, individually or in conjunction*  
3 *with another person:*

4 (a) *Reports a violation or suspected violation of sections 2 to*  
5 *35, inclusive, of this act to a public regulatory agency, a private*  
6 *accreditation body or a management person of the health care*  
7 *facility;*

8 (b) *Initiates, cooperates or otherwise participates in an*  
9 *investigation or proceeding concerning matters covered by*  
10 *sections 2 to 35, inclusive, of this act, brought by the Health*  
11 *Division, any other appropriate regulatory entity or a private*  
12 *accreditation body;*

13 (c) *Informs or discusses any violation or suspected violation of*  
14 *sections 2 to 35, inclusive, of this act with any other employee or a*  
15 *representative of such an employee, with any patient or a*  
16 *representative of such a patient, or with the public; or*

17 (d) *Otherwise avails himself of the rights set forth in sections 2*  
18 *to 35, inclusive, of this act.*

19 2. *For the purposes of this section, a person is deemed to*  
20 *have acted in good faith if the person reasonably believes that the*  
21 *information reported or disclosed is true and that a violation has*  
22 *occurred or may occur.*

23 **Sec. 27.** *A health care facility which violates any provision of*  
24 *sections 25 and 26 of this act may be held liable to the health care*  
25 *employee affected by the violation in an action brought in a court*  
26 *of competent jurisdiction for such legal or equitable relief as may*  
27 *be appropriate, including, without limitation, reinstatement,*  
28 *promotion, payment of lost wages and benefits, and compensatory*  
29 *and consequential damages resulting from the violation, together*  
30 *with an equal amount in punitive damages. If judgment is*  
31 *awarded to the plaintiff, the court shall award to the plaintiff*  
32 *reasonable attorney's fees and costs of action to be paid by the*  
33 *defendants. The right of a health care employee to institute a*  
34 *private action pursuant to this section is not limited by any other*  
35 *rights granted pursuant to sections 2 to 35, inclusive, of this act.*

36 **Sec. 28.** 1. *A health care facility shall post in a conspicuous*  
37 *place readily accessible to the general public a notice prepared by*  
38 *the Health Division that sets forth in summary form the*  
39 *mandatory provisions of sections 2 to 35, inclusive, of this act.*  
40 *Mandatory and actual staffing levels of nurses in each unit must*  
41 *be posted daily in a conspicuous place that is readily accessible to*  
42 *the general public.*

43 2. *Upon request, a health care facility shall make available to*  
44 *the public copies of its documented staffing plan filed with the*  
45 *Health Division. The health care facility shall post in each unit*



1 *within the health care facility, or otherwise make readily available*  
2 *to the nursing staff in that unit, during each work shift:*

3 (a) *A copy of the current documented staffing plan for that*  
4 *unit;*

5 (b) *Documentation of the number of direct care nurses*  
6 *required to be present during the work shift based on the approved*  
7 *adopted acuity system; and*

8 (c) *Documentation of the actual number of direct care nurses*  
9 *present during the work shift.*

10 **Sec. 29.** *The Health Division shall ensure the general*  
11 *compliance of a health care facility with sections 18 to 24,*  
12 *inclusive, of this act, relating to documented staffing plans, and*  
13 *adopt such regulations as are necessary or appropriate to carry*  
14 *out the provisions of this section. Such regulations must, without*  
15 *limitation, provide:*

16 1. *For unannounced, random visits at a health care facility to*  
17 *determine whether the facility is in compliance with sections 18 to*  
18 *24, inclusive, of this act;*

19 2. *An accessible and confidential system pursuant to which*  
20 *the nursing staff or the general public may report the failure of a*  
21 *health care facility to comply with the requirements of sections 18*  
22 *to 24, inclusive, of this act;*

23 3. *A systematic means for investigating and correcting*  
24 *violations of sections 18 to 24, inclusive, of this act;*

25 4. *For public access to information regarding reports of*  
26 *inspections, results, deficiencies and corrections; and*

27 5. *A process for imposing the penalties for violations of the*  
28 *staffing requirements set forth in sections 18 to 24, inclusive, of*  
29 *this act.*

30 **Sec. 30.** *Notwithstanding any provision of sections 2 to 35,*  
31 *inclusive, of this act to the contrary, the Labor Commissioner may*  
32 *take such actions as he determines necessary to ensure that a*  
33 *health care facility is in compliance with sections 2 to 35,*  
34 *inclusive, of this act.*

35 **Sec. 31.** *If the Health Division determines that a health care*  
36 *facility has violated any provision of sections 2 to 35, inclusive, of*  
37 *this act, the Health Division may:*

38 1. *Suspend or revoke the license of the health care facility*  
39 *pursuant to NRS 449.160.*

40 2. *Impose an administrative fine:*

41 (a) *If the health care facility has violated any requirements*  
42 *relating to staffing set forth in sections 18 to 24, inclusive, of this*  
43 *act, of \$15,000 per day, per violation, for each day that the*  
44 *violation occurs or continues.*



1       **(b) If the health care facility has failed to post notice as**  
2 **required by section 28 of this act, of \$1,000 for each day that the**  
3 **notice is not posted as required.**  
4       **(c) If the health care facility has violated any provision of**  
5 **section 25 or 26 of this act, of \$15,000 per violation.**  
6       **Sec. 32. 1. If, after an investigation, the Health Division**  
7 **determines that a health care facility is not in compliance with any**  
8 **provision of sections 2 to 35, inclusive, of this act, or any**  
9 **regulations adopted pursuant thereto, the Health Division shall**  
10 **notify the health care facility of all deficiencies in its compliance.**  
11 **The notice may include an order to take corrective action within a**  
12 **time specified, including, without limitation:**  
13       **(a) Revising the documented staffing plan of the health care**  
14 **facility;**  
15       **(b) Reducing the number of patients within a unit in the health**  
16 **care facility;**  
17       **(c) Temporarily closing a unit to any further admissions of**  
18 **patients until corrections are made; and**  
19       **(d) Temporarily transferring patients to another unit within**  
20 **the health care facility until corrections are made.**  
21       **2. The Health Division may issue an order to take corrective**  
22 **action on an emergency basis, without prior notice or opportunity**  
23 **for a hearing, if the investigation by the Health Division shows**  
24 **that the noncompliance of the health care facility is compromising**  
25 **patient care or poses an immediate danger to the health or safety**  
26 **of patients.**  
27       **3. An order to take corrective action issued by the Health**  
28 **Division pursuant to this section must be in writing and contain a**  
29 **statement of the reasons for issuing the order. If a health care**  
30 **facility fails to comply with an order to take corrective action**  
31 **within the time specified or, if no time has been specified, in a**  
32 **timely manner, the Health Division may take such action as it**  
33 **deems appropriate, including, without limitation:**  
34       **(a) Appointing an administrative overseer for the health care**  
35 **facility;**  
36       **(b) Closing the health care facility or unit to the admission of**  
37 **patients;**  
38       **(c) Placing the emergency room of the health care facility on**  
39 **bypass status; and**  
40       **(d) Suspending or revoking the license of the health care**  
41 **facility.**  
42       **Sec. 33. Any person who willfully violates any provision of**  
43 **sections 2 to 35, inclusive, of this act in a manner that evidences a**  
44 **pattern or practice of violations which is likely to have a serious**  
45 **and adverse impact on patient care or the potential for serious**



1 *injury or death to patients or employees of the health care facility*  
2 *is guilty of a misdemeanor.*

3 **Sec. 34.** *A person or health care facility that fails to report or*  
4 *falsifies information, or that coerces, threatens, intimidates or*  
5 *otherwise influences another person to fail to report or to falsify*  
6 *information, required to be reported pursuant to sections 2 to 35,*  
7 *inclusive, of this act is guilty of a gross misdemeanor and shall be*  
8 *punished by a fine of not more than \$15,000 for each such*  
9 *incident.*

10 **Sec. 35.** *The Department of Human Resources:*

11 *1. May, upon a determination that a health care facility has*  
12 *violated any provision of sections 2 to 35, inclusive, of this act:*

13 *(a) Order the health care facility to reimburse the State Plan*  
14 *for Medicaid for an amount to be determined by the Department;*

15 *(b) Terminate the participation of the health care facility in the*  
16 *State Plan for Medicaid for a period to be determined by the*  
17 *Department of Human Resources; or*

18 *(c) Both order the health care facility to reimburse the State*  
19 *Plan for Medicaid and to terminate the participation of the health*  
20 *care facility in the State Plan for Medicaid.*

21 *2. Shall, if a health care facility falsifies or causes to be*  
22 *falsified documentation required by sections 2 to 35, inclusive, of*  
23 *this act, prohibit the health care facility from receiving any*  
24 *reimbursements from the State Plan for Medicaid for 6 months.*

25 **Sec. 36.** *NRS 449.040 is hereby amended to read as follows:*

26 *449.040 Any person, state or local government or agency*  
27 *thereof desiring a license under the provisions of NRS 449.001 to*  
28 *449.240, inclusive, and sections 2 to 35, inclusive, of this act must*  
29 *file with the Health Division an application , on a form prescribed,*  
30 *prepared and furnished by the Health Division, containing:*

31 *1. The name of the applicant and, if a natural person, whether*  
32 *the applicant has attained the age of 21 years.*

33 *2. The type of facility to be operated.*

34 *3. The location of the facility.*

35 *4. In specific terms, the nature of services and type of care to*  
36 *be offered, as defined in the regulations.*

37 *5. The number of beds authorized by the Director of the*  
38 *Department of Human Resources or, if such authorization is not*  
39 *required, the number of beds the facility will contain.*

40 *6. The name of the person in charge of the facility.*

41 *7. Such other information as may be required by the Health*  
42 *Division for the proper administration and enforcement of NRS*  
43 *449.001 to 449.240, inclusive [H], and sections 2 to 35, inclusive, of*  
44 *this act.*



1 8. Evidence satisfactory to the Health Division that the  
2 applicant is of reputable and responsible character. If the applicant is  
3 a firm, association, organization, partnership, business trust,  
4 corporation or company, similar evidence must be submitted as to  
5 the members thereof ~~§~~ and the person in charge of the facility for  
6 which application is made. If the applicant is a political subdivision  
7 of the State or other governmental agency, similar evidence must be  
8 submitted as to the person in charge of the institution for which  
9 application is made.

10 9. Evidence satisfactory to the Health Division of the ability of  
11 the applicant to comply with the provisions of NRS 449.001 to  
12 449.240, inclusive, *and sections 2 to 35, inclusive, of this act* and  
13 the standards and regulations adopted by the Board.

14 10. Evidence satisfactory to the Health Division that the  
15 facility conforms to the zoning regulations of the local government  
16 within which the facility will be operated or that the applicant has  
17 applied for an appropriate reclassification, variance, permit for  
18 special use or other exception for the facility.

19 **Sec. 37.** NRS 449.060 is hereby amended to read as follows:

20 449.060 1. Each license issued pursuant to NRS 449.001 to  
21 449.240, inclusive, *and sections 2 to 35, inclusive, of this act*  
22 expires on December 31 following its issuance and is renewable for  
23 1 year upon reapplication and payment of the fee provided in NRS  
24 449.040 and 449.050 unless the Health Division finds, after an  
25 investigation, that the facility has not:

26 (a) Satisfactorily complied with the provisions of NRS 449.001  
27 to 449.240, inclusive, *and sections 2 to 35, inclusive, of this act* or  
28 the standards and regulations adopted by the Board;

29 (b) Obtained the approval of the Director of the Department of  
30 Human Resources before undertaking a project, if such approval is  
31 required by NRS 439A.100; or

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

33 2. Each reapplication for an agency to provide nursing in the  
34 home, a residential facility for intermediate care, a facility for  
35 skilled nursing or a residential facility for groups must include,  
36 without limitation, a statement that the facility or agency is in  
37 compliance with the provisions of NRS 449.173 to 449.188,  
38 inclusive.

39 **Sec. 38.** NRS 449.070 is hereby amended to read as follows:

40 449.070 The provisions of NRS 449.001 to 449.240, inclusive,  
41 *and sections 2 to 35, inclusive, of this act* do not apply to:

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



1 the religion of the church or denomination, except that such a  
2 facility must comply with all regulations relative to sanitation and  
3 safety applicable to other facilities of a similar category.

4 2. Foster homes as defined in NRS 424.014.

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

8 **Sec. 39.** NRS 449.160 is hereby amended to read as follows:

9 449.160 1. The Health Division may deny an application for  
10 a license or may suspend or revoke any license issued under the  
11 provisions of NRS 449.001 to 449.240, inclusive, *and sections 2 to*  
12 *35, inclusive, of this act* upon any of the following grounds:

13 (a) Violation by the applicant or the licensee of any of the  
14 provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, *and*  
15 *sections 2 to 35, inclusive, of this act*, or of any other law of this  
16 state or of the standards, rules and regulations adopted thereunder.

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

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

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

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

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.

43 4. On or before February 1 of each odd-numbered year, the  
44 Health Division shall submit to the Director of the Legislative



1 Counsel Bureau a written report setting forth, for the previous  
2 biennium:

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

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

7 **Sec. 40.** NRS 449.163 is hereby amended to read as follows:

8 449.163 1. If a medical facility or facility for the dependent  
9 violates any provision related to its licensure, including any  
10 provision of NRS 439B.410, 449.001 to 449.240, inclusive, *and*  
11 *sections 2 to 35, inclusive, of this act*, or any condition, standard or  
12 regulation adopted by the Board, the Health Division in accordance  
13 with the regulations adopted pursuant to NRS 449.165 may:

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

16 (b) Limit the occupancy of the facility to the number of beds  
17 occupied when the violation occurred, until it determines that the  
18 facility has corrected the violation;

19 (c) ~~Impose~~ *Except as otherwise provided in section 31 of this*  
20 *act, impose* an administrative penalty of not more than \$1,000 per  
21 day for each violation, together with interest thereon at a rate not to  
22 exceed 10 percent per annum; and

23 (d) Appoint temporary management to oversee the operation of  
24 the facility and to ensure the health and safety of the patients of the  
25 facility, until:

26 (1) It determines that the facility has corrected the violation  
27 and has management which is capable of ensuring continued  
28 compliance with the applicable statutes, conditions, standards and  
29 regulations; or

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

31 2. If the facility fails to pay any administrative penalty imposed  
32 pursuant to paragraph (c) of subsection 1, the Health Division may:

33 (a) Suspend the license of the facility until the administrative  
34 penalty is paid; and

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

37 3. The Health Division may require any facility that violates  
38 any provision of NRS 439B.410, 449.001 to 449.240, inclusive, *and*  
39 *sections 2 to 35, inclusive, of this act*, or any condition, standard or  
40 regulation adopted by the Board, to make any improvements  
41 necessary to correct the violation.

42 4. Any money collected as administrative penalties pursuant to  
43 this section must be accounted for separately and used to protect the  
44 health or property of the residents of the facility in accordance with  
45 applicable federal standards.





1     **Sec. 41.** The Health Division of the Department of Human  
2 Resources shall not renew the license of any health care facility, as  
3 that term is defined in section 7 of this act, if the health care facility  
4 has not submitted to the Health Division a documented staffing plan  
5 as required by sections 18 to 24, inclusive, of this act.

6     **Sec. 42.** The provisions of NRS 354.599 do not apply to any  
7 additional expenses of a local government that are related to the  
8 provisions of this act.

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