

---

---

ASSEMBLY BILL NO. 350—ASSEMBLYMEN OHRENSCHALL  
AND CLABORN

MARCH 17, 2003

---

Referred to Committee on Judiciary

SUMMARY—Prohibits State Board of Health from requiring certain residential facilities for groups to purchase or maintain policy of liability insurance. (BDR 40-971)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

~

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

---

---

AN ACT relating to facilities for the dependent; prohibiting the State Board of Health from requiring a residential facility for groups which provides care only to older patients to purchase or maintain a policy of liability insurance; 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 and 3 of this act.  
3     **Sec. 2.** *“Older patient” means a patient who is 60 years of*  
4     *age or older.*  
5     **Sec. 3.** *The Board shall not require a residential facility for*  
6     *groups which provides care only to older patients to purchase or*  
7     *maintain a policy of liability insurance for the facility.*  
8     **Sec. 4.** NRS 449.001 is hereby amended to read as follows:  
9     449.001 As used in this chapter, unless the context otherwise  
10    requires, the words and terms defined in NRS 449.0015 to 449.019,  
11    inclusive, *and section 2 of this act* have the meanings ascribed to  
12    them in those sections.  
13    **Sec. 5.** NRS 449.030 is hereby amended to read as follows:  
14    449.030 1. No person, state or local government or agency  
15    thereof may operate or maintain in this state any medical facility or



\* A B 3 5 0 \*

1 facility for the dependent without first obtaining a license therefor as  
2 provided in NRS 449.001 to 449.240, inclusive ~~H~~, *and sections 2*  
3 *and 3 of this act.*

4 2. Unless licensed as a facility for hospice care, a person, state  
5 or local government or agency thereof shall not operate a program  
6 of hospice care without first obtaining a license for the program  
7 from the Board.

8 **Sec. 6.** NRS 449.037 is hereby amended to read as follows:  
9 449.037 1. The Board shall adopt:

10 (a) Licensing standards for each class of medical facility or  
11 facility for the dependent covered by NRS 449.001 to 449.240,  
12 inclusive, *and sections 2 and 3 of this act*, and for programs of  
13 hospice care.

14 (b) Regulations governing the licensing of such facilities and  
15 programs.

16 (c) Regulations governing the procedure and standards for  
17 granting an extension of the time for which a natural person may  
18 provide certain care in his home without being considered a  
19 residential facility for groups pursuant to NRS 449.017. The  
20 regulations must require that such grants are effective only if made  
21 in writing.

22 (d) Regulations establishing a procedure for the indemnification  
23 by the Health Division, from the amount of any surety bond or other  
24 obligation filed or deposited by a facility for refractive laser surgery  
25 pursuant to NRS 449.068 or 449.069, of a patient of the facility who  
26 has sustained any damages as a result of the bankruptcy of or any  
27 breach of contract by the facility.

28 (e) Any other regulations as it deems necessary or convenient to  
29 carry out the provisions of NRS 449.001 to 449.240, inclusive ~~H~~,  
30 *and sections 2 and 3 of this act.*

31 2. The Board shall adopt separate regulations governing the  
32 licensing and operation of:

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

34 (b) Residential facilities for groups,  
35 which provide care to persons with Alzheimer's disease.

36 3. The Board shall adopt separate regulations for:

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

39 (b) The licensure of facilities for refractive laser surgery which  
40 take into consideration the unique factors of operating such a  
41 facility.

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



1 4. The Board shall require that the practices and policies of  
2 each medical facility or facility for the dependent provide  
3 adequately for the protection of the health, safety and physical,  
4 moral and mental well-being of each person accommodated in the  
5 facility.

6 5. The Board shall establish minimum qualifications for  
7 administrators and employees of residential facilities for groups. In  
8 establishing the qualifications, the Board shall consider the related  
9 standards set by nationally recognized organizations which accredit  
10 such facilities.

11 6. The Board shall adopt separate regulations regarding the  
12 assistance which may be given pursuant to NRS 453.375 and  
13 454.213 to an ultimate user of controlled substances or dangerous  
14 drugs by employees of residential facilities for groups. The  
15 regulations must require at least the following conditions before  
16 such assistance may be given:

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

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

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

23 (1) Addresses possession and assistance in the administration  
24 of the medication; and

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

28 (d) The prescribed medication is not administered by injection  
29 or intravenously.

30 (e) The employee has successfully completed training and  
31 examination approved by the Health Division regarding the  
32 authorized manner of assistance.

33 7. The Board shall, if it determines necessary, adopt  
34 regulations and requirements to ensure that each residential facility  
35 for groups and its staff are prepared to respond to an emergency,  
36 including, without limitation:

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

40 (b) The adoption of plans to provide for the evacuation of a  
41 residential facility for groups in an emergency, including, without  
42 limitation, plans to ensure that nonambulatory patients may be  
43 evacuated;

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



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

4 **Sec. 7.** NRS 449.070 is hereby amended to read as follows:

5 449.070 The provisions of NRS 449.001 to 449.240, inclusive,  
6 *and sections 2 and 3 of this act* do not apply to:

7 1. Any facility conducted by and for the adherents of any  
8 church or religious denomination for the purpose of providing  
9 facilities for the care and treatment of the sick who depend solely  
10 upon spiritual means through prayer for healing in the practice of  
11 the religion of the church or denomination, except that such a  
12 facility must comply with all regulations relative to sanitation and  
13 safety applicable to other facilities of a similar category.

14 2. Foster homes as defined in NRS 424.014.

15 3. Any medical facility or facility for the dependent operated  
16 and maintained by the United States Government or an agency  
17 thereof.

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

19 449.160 1. The Health Division may deny an application for  
20 a license or may suspend or revoke any license issued under the  
21 provisions of NRS 449.001 to 449.240, inclusive, *and sections 2*  
22 *and 3 of this act* upon any of the following grounds:

23 (a) Violation by the applicant or the licensee of any of the  
24 provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, *and*  
25 *sections 2 and 3 of this act* or of any other law of this state or of the  
26 standards, rules and regulations adopted thereunder.

27 (b) Aiding, abetting or permitting the commission of any illegal  
28 act.

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

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

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

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

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

44 (b) Is ordered to but fails to abate a nuisance pursuant to NRS  
45 244.360, 244.3603 or 268.4124; or



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

4 3. The Health Division shall maintain a log of any complaints  
5 that it receives relating to activities for which the Health Division  
6 may revoke the license to operate a facility for the dependent  
7 pursuant to subsection 2.

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

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

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

16 **Sec. 9.** NRS 449.163 is hereby amended to read as follows:

17 449.163 1. If a medical facility or facility for the dependent  
18 violates any provision related to its licensure, including any  
19 provision of NRS 439B.410, 449.001 to 449.240, inclusive, *and*  
20 *sections 2 and 3 of this act*, or any condition, standard or regulation  
21 adopted by the Board, the Health Division in accordance with the  
22 regulations adopted pursuant to NRS 449.165 may:

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

25 (b) Limit the occupancy of the facility to the number of beds  
26 occupied when the violation occurred, until it determines that the  
27 facility has corrected the violation;

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

31 (d) Appoint temporary management to oversee the operation of  
32 the facility and to ensure the health and safety of the patients of the  
33 facility, until:

34 (1) It determines that the facility has corrected the violation  
35 and has management which is capable of ensuring continued  
36 compliance with the applicable statutes, conditions, standards and  
37 regulations; or

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

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

41 (a) Suspend the license of the facility until the administrative  
42 penalty is paid; and

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



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

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

10 **Sec. 10.** NRS 449.220 is hereby amended to read as follows:

11 449.220 1. The Health Division may bring an action in the  
12 name of the State to enjoin any person, state or local government  
13 unit or agency thereof from operating or maintaining any facility  
14 within the meaning of NRS 449.001 to 449.240, inclusive ~~§~~, *and*  
15 *sections 2 and 3 of this act*:

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

17 (b) After his license has been revoked or suspended by the  
18 Health Division.

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

22 **Sec. 11.** NRS 427A.175 is hereby amended to read as follows:

23 427A.175 1. Within 1 year after an older patient sustains  
24 damage to his property as a result of any act or failure to act by a  
25 facility for intermediate care, a facility for skilled nursing, a  
26 residential facility for groups or an agency to provide nursing in the  
27 home in protecting the property, the older patient may file a verified  
28 complaint with the Division setting forth the details of the damage.

29 2. Upon receiving a verified complaint pursuant to subsection  
30 1, the Administrator shall investigate the complaint and attempt to  
31 settle the matter through arbitration, mediation or negotiation.

32 3. If a settlement is not reached pursuant to subsection 2, the  
33 facility, agency or older patient may request a hearing before  
34 the Specialist for the Rights of Elderly Persons. If requested, the  
35 Specialist for the Rights of Elderly Persons shall conduct a hearing  
36 to determine whether the facility or agency is liable for damages to  
37 the patient. If the Specialist for the Rights of Elderly Persons  
38 determines that the facility or agency is liable for damages to the  
39 patient, he shall order the amount of the surety bond pursuant to  
40 NRS 449.065 or the substitute for the surety bond necessary to pay  
41 for the damages pursuant to NRS 449.067 to be released to the  
42 Division. The Division shall pay any such amount to the older  
43 patient or the estate of the older patient.

44 4. The Division shall create a separate account for money to be  
45 collected and distributed pursuant to this section.



- 1     5. As used in this section:  
2     (a) “Agency to provide nursing in the home” has the meaning  
3 ascribed to it in NRS 449.0015;  
4     (b) “Facility for intermediate care” has the meaning ascribed to  
5 it in NRS 449.0038;  
6     (c) “Facility for skilled nursing” has the meaning ascribed to it  
7 in NRS 449.0039;  
8     (d) “Older patient” has the meaning ascribed to it in ~~NRS~~  
9 ~~449.063;~~ *section 2 of this act;* and  
10    (e) “Residential facility for groups” has the meaning ascribed to  
11 it in NRS 449.017.  
12    **Sec. 12.** NRS 449.063 is hereby repealed.  
13    **Sec. 13.** This act becomes effective on July 1, 2003.

---

---

**TEXT OF REPEALED SECTION**

---

---

**449.063 “Older patient” defined.** As used in this section and NRS 449.065 and 449.067, “older patient” means a patient who is 60 years of age or older.

