

SENATE BILL NO. 298—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON SENIOR
CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS)

MARCH 16, 2023

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing the involuntary discharge of a resident from a residential facility for groups. (BDR 40-301)

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 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:

1 Existing federal regulations require a state to ensure that providers of home and
2 community-based services in a provider-owned or controlled residential setting,
3 which includes a residential facility for groups, provide protections from eviction
4 for residents that are comparable to protections provided under state landlord tenant
5 law. (42 C.F.R. § 441.530(a)(1)(vi)(A)) Existing law defines a “residential facility
6 for groups” as an establishment that furnishes food, overnight shelter, assistance
7 and limited supervision to persons with an intellectual or physical disability or



8 persons who are aged or infirm. (NRS 449.017) At least 30 days before
9 involuntarily discharging a resident of a residential facility for groups, existing law
10 requires the residential facility for groups to provide the resident and the State
11 Long-Term Care Ombudsman with written notice of the intent to discharge the
12 resident. Existing law also requires a residential facility for groups to allow the
13 resident and any person authorized by the resident to meet in person with
14 the administrator of the facility to discuss the proposed discharge within 10 days
15 after providing written notice of the proposed discharge. (NRS 449A.114) **Sections**
16 **2-7** of this bill define certain terms relating to residential facilities for groups.
17 **Section 8** of this bill prohibits the owner, agent or employee of a residential facility
18 for groups or a provider of health care from acting as the representative of a
19 resident in matters concerning the involuntary discharge of the resident, unless the
20 person is related to the resident. **Section 9** of this bill requires a contract between a
21 resident and a residential facility for groups for the delivery of services to include
22 certain information. **Section 10** of this bill prohibits the transfer or involuntary
23 discharge of a resident from a residential facility for groups except: (1) for certain
24 reasons relating to the condition of the resident and the ability of the facility to meet
25 his or her needs; (2) if the health or safety of the resident or another resident is
26 endangered; (3) for a failure to pay contracted charges; or (4) if the facility ceases
27 to operate. **Section 10** requires a residential facility for groups to: (1) provide
28 certain additional notice before involuntarily discharging a resident for failure to
29 pay contracted charges; and (2) attempt to resolve any issues that might result in the
30 involuntary discharge of a resident before discharging the resident. **Section 11** of
31 this bill prescribes the required contents of a written notice of intent to discharge a
32 resident. **Section 11** also requires a residential facility for groups to provide a
33 resident or a representative of the resident with written notice of the location of
34 a proposed discharge not later than 10 days after providing notice of the proposed
35 discharge.

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

44 **Sections 1 and 19** of this bill authorize the imposition of disciplinary action
45 against a residential facility for groups that violates the provisions of **sections 4-12**
46 of this bill and certain provisions of existing law concerning the rights of residents
47 or the administrator of such a facility who aids or abets in such a violation. **Section**
48 **12** provides that a residential facility for groups is not subject to disciplinary action
49 for an emergency transfer or discharge under certain circumstances.

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

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



* S B 2 9 8 R 1 *

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

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

2 449.160 1. The Division may deny an application for a
3 license or may suspend or revoke any license issued under the
4 provisions of NRS 449.029 to 449.2428, inclusive, upon any of the
5 following grounds:

6 (a) Violation by the applicant or the licensee of any of the
7 provisions of NRS 439B.410, ~~for~~ 449.029 to 449.245, inclusive, *or*
8 *449A.100 to 449A.124, inclusive, and sections 4 to 12, inclusive, of*
9 *this act* or of any other law of this State or of the standards, rules
10 and regulations adopted thereunder.

11 (b) Aiding, abetting or permitting the commission of any illegal
12 act.

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

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

18 (e) Failure of the applicant to obtain written approval from the
19 Director of the Department of Health and Human Services as
20 required by NRS 439A.100 or as provided in any regulation adopted
21 pursuant to NRS 449.001 to 449.430, inclusive, and 449.435 to
22 449.531, inclusive, and chapter 449A of NRS if such approval is
23 required.

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

26 (g) Violation of the provisions of NRS 458.112.

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

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

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

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

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



1 (a) A summary of a complaint against the facility if the
2 investigation of the complaint by the Division either substantiates
3 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 Division shall submit to the Director of the Legislative Counsel
11 Bureau a written report setting forth, for the previous biennium:

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

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

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

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

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

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

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

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

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

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

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



1 2. *Be printed in at least 12 point type; and*
2 3. *Include, without limitation, the following information in*
3 *the body of the contract or in a supporting document or*
4 *attachment:*

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

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

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

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

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

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

24 (e) *The duration of the contract;*

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

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

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

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

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

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

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

44 (m) *The obligations of the resident in order to maintain*
45 *residency and receive services, including, without limitation,*



1 *compliance with the annual physical examination and assessment*
2 *required by NRS 449.1845;*

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

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

10 *(p) Contact information for:*

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

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

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

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

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

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

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

28 *(d) The services available to the resident at the residential*
29 *facility for groups are no longer adequate to meet the needs of the*
30 *resident, as determined using information from the annual*
31 *physical examination and assessment conducted pursuant to NRS*
32 *449.1845; or*

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

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

41 **3. Except as otherwise provided in this subsection, a**
42 **residential facility for groups shall attempt to resolve with the**
43 **resident or the representative of the resident, if applicable, any**
44 **circumstances that, if not remedied, have the potential to result in**
45 **an involuntary discharge of the resident. The facility shall**



1 document any such attempt in the file of the resident. All attempts
2 at resolution pursuant to this subsection must occur before the
3 resident is discharged, but may occur before or after the provision
4 of notice pursuant to NRS 449A.114. A residential facility for
5 groups is not required to comply with the requirements of this
6 subsection in an emergency.

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

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

15 (a) The reason for the proposed discharge; and

16 (b) The date of the proposed discharge.

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

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

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

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

44 3. In nonemergency situations, and where possible in an
45 emergency, a residential facility for groups that transfers or



1 *discharges a resident shall, in consultation with the resident and*
2 *his or her representative, if applicable, design and implement a*
3 *transition plan in advance of the transfer or discharge.*

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

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

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

11 **Sec. 13.** (Deleted by amendment.)

12 **Sec. 14.** (Deleted by amendment.)

13 **Sec. 15.** NRS 449A.001 is hereby amended to read as follows:
14 449A.001 As used in this chapter, unless the context otherwise
15 requires, the words and terms defined in NRS 449A.007 to
16 449A.081, inclusive, *and section 3 of this act* have the meanings
17 ascribed to them in those sections.

18 **Sec. 16.** NRS 449A.114 is hereby amended to read as follows:
19 449A.114 1. Except as otherwise provided in subsection 2,
20 before a facility for intermediate care, facility for skilled nursing or
21 residential facility for groups transfers a patient to another medical
22 facility or facility for the dependent or discharges the patient *or*
23 *resident* from the facility, the facility shall:

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

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

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

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

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

39 3. As used in this section:

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

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

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



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

3 **Sec. 17.** (Deleted by amendment.)

4 **Sec. 18.** NRS 427A.125 is hereby amended to read as follows:

5 427A.125 1. The Office of the State Long-Term Care
6 Ombudsman is hereby created within the Division.

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

12 (a) Train advocates to:

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

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

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

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

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

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

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



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

3 (e) Report annually to the Administrator.

4 3. The Ombudsman may:

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

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

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

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

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

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

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

25 654.190 1. The Board may, after notice and an opportunity
26 for a hearing as required by law, impose an administrative fine of
27 not more than \$10,000 for each violation on, recover reasonable
28 investigative fees and costs incurred from, suspend, revoke, deny
29 the issuance or renewal of or place conditions on the license of, and
30 place on probation or impose any combination of the foregoing on
31 any licensee who:

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

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

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

37 (d) Aids or abets any person in the violation of any of the
38 provisions of NRS 449.029 to 449.2428, inclusive, *or 449A.100 to*
39 *449A.124, inclusive, and sections 4 to 12, inclusive, of this act*, as
40 those provisions pertain to a facility for skilled nursing, facility for
41 intermediate care or residential facility for groups.

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



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

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

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

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

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

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

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

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

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

