
SENATE BILL NO. 348—SENATORS DONATE AND OHRENSCHALL

MARCH 21, 2023

JOINT SPONSORS: ASSEMBLYMEN GONZÁLEZ; CARTER, DURAN,
MOSCA, PETERS AND WATTS

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to health facilities.
(BDR 40-51)

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 health care; requiring written approval to close or convert a hospital into a different type of health facility; requiring written approval to establish an independent center for emergency medical care in a certain location; requiring an independent center for emergency medical care to be licensed separately from certain other facilities; establishing certain civil penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires a person to obtain the written approval of the: (1) Director
2 of the Department of Health and Human Services before making certain capital
3 expenditures for construction of a new health facility under certain circumstances;
4 or (2) the Chief Medical Officer before operating or undertaking any expenditure
5 for the operation of a new medical helicopter within 150 miles from the base of an
6 existing medical helicopter. (NRS 439A.100, 439A.104) **Section 2** of this bill
7 similarly requires a person to obtain the written approval of the Director before
8 closing or converting a hospital into a different type of health facility. **Section 3** of
9 this bill additionally requires a person to obtain the written approval of the Director
10 before establishing an independent center for emergency medical care located
11 within 15 miles of another independent center for emergency medical care or a
12 hospital. **Sections 2, 3 and 7-9** of this bill provide that such approval is a condition
13 to: (1) the issuance or renewal of a license for certain health facilities converted
14 from a hospital or a newly established independent center for emergency medical
15 care; and (2) certain amendments to such a license. **Sections 5 and 10** of this bill
16 authorize the Department and the Division of Public and Behavioral Health of the



17 Department to impose certain civil penalties and take certain other disciplinary
18 action against a person who: (1) closes a hospital or converts a hospital to a
19 different type of health facility without written approval in violation of **section 2**; or
20 (2) establishes an independent center for emergency medical care within 15 miles
21 of another independent center for emergency medical care or a hospital without
22 written approval in violation of **section 3**.

23 Existing law requires: (1) a hospital to notify the Department of any merger,
24 acquisition or similar transaction involving the hospital; and (2) a physician group
25 practice or a person who owns all or substantially all of a physician group practice
26 to notify the Department of certain similar transactions under certain circumstances.
27 (NRS 439A.126) **Section 4** of this bill authorizes the Department to impose an
28 administrative penalty against a hospital, physician group practice or person who
29 owns all or substantially all of a physician group practice that fails to provide
30 timely notice of the information required by existing law.

31 Existing law requires the operator of a medical facility, including an
32 independent center for emergency medical care, or a facility for the dependent to
33 obtain a license from the Division. (NRS 449.030) **Section 6** of this bill requires an
34 independent center for emergency medical care to be licensed separately from any
35 other licensed facility.

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

1 **Section 1.** Chapter 439A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2. 1. *Except as otherwise provided in this section, no***
4 ***person may close a hospital or convert a hospital into a different***
5 ***type of health facility without first applying for and obtaining the***
6 ***written approval of the Director or the designee of the Director.***
7 ***The Division of Public and Behavioral Health of the Department***
8 ***shall not issue a new license or alter an existing license for***
9 ***conversion to a different type of health facility unless the Director***
10 ***or the designee of the Director has issued such an approval.***

11 ***2. The Director may adopt regulations which prescribe the***
12 ***process to apply for written approval pursuant to this section.***

13 ***3. An applicant must provide any information requested by***
14 ***the Director or the designee of the Director for consideration of an***
15 ***application, which must include, without limitation, information***
16 ***related to:***

17 ***(a) The location of the hospital;***

18 ***(b) The ownership structure of the hospital;***

19 ***(c) Whether the closure or conversion is likely to benefit any***
20 ***other health facility in the same geographic area as the hospital in***
21 ***which any person with an ownership interest in the hospital also***
22 ***has an ownership interest;***

23 ***(d) An explanation of the need for the closure or conversion;***

24 ***(e) Data regarding the population served by the hospital in the***
25 ***24 months immediately preceding the application; and***



1 (f) *The manner in which and the locations where the*
2 *population served by the hospital will be able to obtain the health*
3 *services that were provided by the hospital during the 24 months*
4 *following the closure or conversion of the hospital.*

5 4. *The Director or the designee of the Director shall not*
6 *approve an application submitted pursuant to subsection 1 without*
7 *considering the information required to be submitted pursuant to*
8 *subsection 3.*

9 5. *The decision of the Director or the designee of the Director*
10 *pursuant to this section is a final decision for the purposes of*
11 *judicial review.*

12 6. *The provisions of this section do not apply to any person*
13 *who ceases to operate hospitals in this State.*

14 **Sec. 3.** 1. *No person may establish an independent center*
15 *for emergency medical care located within 15 miles of another*
16 *independent center for emergency medical care or within 15 miles*
17 *of a hospital without first applying for and obtaining the written*
18 *approval of the Director or the designee of the Director. The*
19 *Division of Public and Behavioral Health of the Department shall*
20 *not issue a new license or alter an existing license for such an*
21 *independent center for emergency medical care unless the*
22 *Director or the designee of the Director has issued such an*
23 *approval.*

24 2. *An applicant must provide any information requested by*
25 *the Director or the designee of the Director for consideration of an*
26 *application, including, without limitation, information related to:*

27 (a) *The financial stability and ownership structure of the*
28 *proposed independent center for emergency medical care and any*
29 *other health facility relevant to the application; and*

30 (b) *The potential effect of the proposed independent center for*
31 *emergency medical care on the costs of health services.*

32 3. *The Director or the designee of the Director may approve*
33 *an application submitted pursuant to subsection 1 only if the*
34 *applicant demonstrates that:*

35 (a) *Based on the needs of the specific population to be served*
36 *by the proposed independent center for emergency medical care*
37 *and on the projected number of persons who need or will need the*
38 *services offered by the proposed independent center for emergency*
39 *medical care, there is a demonstrated need for the proposed*
40 *independent center for emergency medical care;*

41 (b) *The existing independent centers for emergency medical*
42 *care, existing urgent care facilities and existing hospitals in the*
43 *geographic area to be served by the proposed independent center*
44 *for emergency medical care are not willing to meet or are not*
45 *capable of meeting the projected needs of the population to be*



1 *served by the proposed independent center for emergency medical*
2 *care;*

3 *(c) The applicant has the financial stability to provide*
4 *emergency medical services to the population to be served by the*
5 *proposed independent center for emergency medical care for a*
6 *significant period of time;*

7 *(d) The proposed independent center for emergency medical*
8 *care is likely to result in significantly reduced health care costs for*
9 *the population to be served by the proposed independent center for*
10 *emergency medical care and payors who cover that population;*

11 *(e) The proposed independent center for emergency medical*
12 *care is unlikely to have an adverse effect on the quality of care*
13 *provided to the population served by the proposed independent*
14 *center for emergency medical care; and*

15 *(f) The approval of the application will not adversely affect an*
16 *existing provider of emergency medical services.*

17 **4. In determining whether to approve an application**
18 **submitted pursuant to subsection 1, the Director or the designee of**
19 **the Director shall:**

20 *(a) Contact existing providers of emergency medical services*
21 *and payors who cover the population to be served by the proposed*
22 *independent center for emergency medical care;*

23 *(b) Ensure that such providers and payors have the*
24 *opportunity to participate in any public hearing concerning the*
25 *application; and*

26 *(c) Otherwise seek the input of such providers and payors.*

27 **5. The Department may by regulation require additional**
28 **approval for a proposed change to a project which has previously**
29 **been approved if the proposal would result in a change in the**
30 **location of the project.**

31 **6. The decision of the Director or the designee of the Director**
32 **pursuant to this section is a final decision for the purposes of**
33 **judicial review.**

34 **7. As used in this section, “independent center for emergency**
35 **medical care” has the meaning ascribed to it in NRS 449.013.**

36 **Sec. 4.** NRS 439A.126 is hereby amended to read as follows:

37 **439A.126 1.** A hospital shall notify the Department of any
38 merger, acquisition or joint venture with any entity, including,
39 without limitation, a physician group practice, to which the hospital
40 is a party or any contract for the management of the hospital not
41 later than 60 days after the finalization of the transaction or
42 execution of the contract for management, as applicable.

43 **2.** A physician group practice or a person who owns all or
44 substantially all of a physician group practice shall notify the
45 Department of a transaction described in subsection 3 to which the



1 physician group practice or person, as applicable, is a party or any
2 contract for the management of the physician group practice not
3 later than 60 days after the finalization of the transaction or
4 execution of the contract for management, as applicable, if:

5 (a) The physician group practices that are parties to the
6 transaction or contract for management or that are owned by those
7 parties represent at least 20 percent of the physicians who practice
8 any specialty in a primary service area; and

9 (b) The physician group practice represents the largest number
10 of physicians of any physician group practice that is a party to or
11 owned by a party to the transaction or contract for management.

12 3. Notice must be provided pursuant to subsection 2 for any:

13 (a) Merger of, consolidation of or other affiliation between
14 physician group practices, persons who own physician group
15 practices or any combination thereof;

16 (b) The acquisition of all or substantially all of the properties
17 and assets of a physician group practice;

18 (c) The acquisition of all or substantially all of the capital stock,
19 membership interests or other equity interests of a physician group
20 practice;

21 (d) The employment of all or substantially all of the physicians
22 in a physician group practice; or

23 (e) The acquisition of an insolvent physician group practice.

24 4. Notice pursuant to subsection 1 or 2 must be provided in the
25 form prescribed by the Department and must include, without
26 limitation:

27 (a) The name of each party to the transaction or contract for
28 management, as applicable;

29 (b) A description of the nature of the proposed relationship of
30 the parties to the transaction or contract for management, as
31 applicable;

32 (c) The names and any specialties of each physician who is a
33 party or employed by or affiliated with a physician group practice
34 that is a party to or is owned by a party to the transaction or contract
35 for management, as applicable;

36 (d) The name and address of each business entity that will
37 provide health services after the transaction or contract for
38 management, as applicable;

39 (e) A description of the health services to be provided at each
40 location of a business entity described in paragraph (d); and

41 (f) The primary service area to be served by each location of a
42 business entity described in paragraph (d).

43 5. The Department shall:



1 (a) Post the information contained in the notices provided
2 pursuant to subsections 1 and 2 on an Internet website maintained
3 by the Department; and

4 (b) Annually prepare a report regarding market transactions and
5 concentration in health care based on the information in the notices
6 and post the report on an Internet website maintained by the
7 Department.

8 6. *If a hospital, a physician group practice or a person who*
9 *owns all or substantially all of a physician group practice fails to*
10 *provide timely notice to the Department pursuant to subsection 1*
11 *or 2, as applicable, and the failure was not caused by excusable*
12 *neglect, technical problems or other extenuating circumstances,*
13 *the Department may impose against the hospital, physician group*
14 *practice or person who owns all or substantially all of a physician*
15 *group practice an administrative penalty of not more than \$5,000*
16 *for each day of such failure.*

17 7. *Any money collected as administrative penalties pursuant*
18 *to this section must be accounted for separately and used by the*
19 *Department to carry out the provisions of NRS 439A.111 to*
20 *439A.126, inclusive, or for any other purpose authorized by the*
21 *Legislature.*

22 8. As used in this section:

23 (a) "Physician group practice" means any business entity
24 organized for the purpose of the practice of medicine or osteopathic
25 medicine by more than one physician.

26 (b) "Primary service area" means an area comprising the
27 smallest number of zip codes from which the hospital or physician
28 group practice draws at least 75 percent of patients.

29 **Sec. 5.** NRS 439A.310 is hereby amended to read as follows:

30 439A.310 1. Except as otherwise provided in subsection 2,
31 any person who violates any of the provisions of this chapter is
32 liable to the State for a civil penalty of:

33 (a) Where the provision violated governs the licensing of a
34 project which is required to be approved pursuant to NRS 439A.100
35 **or section 2 or 3 of this act**, not more than 10 percent of the
36 proposed expenditure for the project.

37 (b) Where any other provision is violated, not more than
38 \$20,000 for each violation.

39 2. The Department shall not impose a penalty under this
40 section if it applies for injunctive relief to prevent the same
41 violation.

42 **Sec. 6.** NRS 449.030 is hereby amended to read as follows:

43 449.030 1. Except as otherwise provided in NRS 449.03013
44 and 449.03017, no person, state or local government or agency
45 thereof may operate or maintain in this State any medical facility or



1 facility for the dependent without first obtaining a license therefor as
2 provided in NRS 449.029 to 449.2428, inclusive.

3 **2. *Each independent center for emergency medical care must***
4 ***be licensed separately from any other independent center for***
5 ***emergency medical care, any other medical facility and any***
6 ***facility for the dependent.***

7 **Sec. 7.** NRS 449.080 is hereby amended to read as follows:

8 449.080 1. If, after investigation, the Division finds that the:

9 (a) Applicant is in full compliance with the provisions of NRS
10 449.029 to 449.2428, inclusive;

11 (b) Applicant is in substantial compliance with the standards and
12 regulations adopted by the Board;

13 (c) Applicant, if he or she has undertaken a project for which
14 approval is required pursuant to NRS 439A.100 ~~§~~ **or section 2 or 3**
15 **of this act**, has obtained the approval of the Director of the
16 Department of Health and Human Services; and

17 (d) Facility conforms to the applicable zoning regulations,
18 ↪ the Division shall issue the license to the applicant.

19 2. Any investigation of an applicant for a license to provide
20 community-based living arrangement services conducted pursuant
21 to subsection 1 must include, without limitation, an inspection of
22 any building operated by the applicant in which the applicant
23 proposes to provide community-based living arrangement services.

24 3. A license applies only to the person to whom it is issued, is
25 valid only for the premises described in the license and is not
26 transferable.

27 **Sec. 8.** NRS 449.087 is hereby amended to read as follows:

28 449.087 1. A licensee must obtain the approval of the
29 Division to amend his or her license to operate a facility before the
30 addition of any of the following services:

31 (a) The intensive care of newborn babies.

32 (b) The treatment of burns.

33 (c) The transplant of organs.

34 (d) The performance of open-heart surgery.

35 (e) A center for the treatment of trauma.

36 2. The Division shall approve an application to amend a license
37 to allow a facility to provide any of the services described in
38 subsection 1 if:

39 (a) The applicant satisfies the requirements contained in
40 NRS 449.080;

41 (b) The Division determines on the basis of the standards
42 adopted by the Board pursuant to subsection 4 that there are an
43 adequate number of cases in the community to be served to support
44 amending the license to add the service; and



1 (c) The Division determines that the applicant satisfies any other
2 standards adopted by the Board pursuant to subsection 4.

3 3. The Division may revoke its approval if the licensee fails to
4 maintain substantial compliance with the standards adopted by the
5 Board pursuant to subsection 4 for the provision of such services, or
6 with any conditions included in the written approval of the Director
7 issued pursuant to the provisions of NRS 439A.100 **[H] or section 2**
8 **or 3 of this act.**

9 4. The Board shall:

10 (a) Adopt standards which have been adopted by appropriate
11 national organizations to be used by the Division in determining
12 whether there are an adequate number of cases in the community to
13 be served to support amending the license of a licensee to add a
14 service pursuant to this section; and

15 (b) Adopt such other standards as it deems necessary for
16 determining whether to approve the provision of services pursuant
17 to this section.

18 **Sec. 9.** NRS 449.089 is hereby amended to read as follows:

19 449.089 1. Each license issued pursuant to NRS 449.029 to
20 449.2428, inclusive, expires on December 31 following its issuance
21 and is renewable for 1 year upon reapplication and payment of all
22 fees required pursuant to subsection 4 and NRS 449.050, as
23 applicable, unless the Division finds, after an investigation, that the
24 facility has not:

25 (a) Satisfactorily complied with the provisions of NRS 449.029
26 to 449.2428, inclusive, or the standards and regulations adopted by
27 the Board;

28 (b) Obtained the approval of the Director of the Department of
29 Health and Human Services before undertaking a project, if such
30 approval is required by NRS 439A.100 **[H] or section 2 or 3 of this**
31 **act;** or

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

33 2. Each reapplication for an agency to provide personal care
34 services in the home, an agency to provide nursing in the home, a
35 community health worker pool, a facility for intermediate care, a
36 facility for skilled nursing, a provider of community-based living
37 arrangement services, a hospital described in 42 U.S.C. §
38 1395ww(d)(1)(B)(iv), a psychiatric hospital that provides inpatient
39 services to children, a psychiatric residential treatment facility, a
40 residential facility for groups, a program of hospice care, a home for
41 individual residential care, a facility for the care of adults during the
42 day, a facility for hospice care, a nursing pool, the distinct part of a
43 hospital which meets the requirements of a skilled nursing facility or
44 nursing facility pursuant to 42 C.F.R. § 483.5, a hospital that
45 provides swing-bed services as described in 42 C.F.R. § 482.58 or,



1 if residential services are provided to children, a medical facility or
2 facility for the treatment of alcohol or other substance use disorders
3 must include, without limitation, a statement that the facility,
4 hospital, agency, program, pool or home is in compliance with the
5 provisions of NRS 449.115 to 449.125, inclusive, and 449.174.

6 3. Each reapplication for an agency to provide personal care
7 services in the home, a community health worker pool, a facility for
8 intermediate care, a facility for skilled nursing, a facility for the care
9 of adults during the day, a residential facility for groups or a home
10 for individual residential care must include, without limitation, a
11 statement that the holder of the license to operate, and the
12 administrator or other person in charge and employees of, the
13 facility, agency, pool or home are in compliance with the provisions
14 of NRS 449.093.

15 4. Each reapplication for a surgical center for ambulatory
16 patients, facility for the treatment of irreversible renal disease,
17 facility for hospice care, program of hospice care, hospital, facility
18 for intermediate care, facility for skilled nursing, agency to provide
19 personal care services in the home or rural clinic must be
20 accompanied by the fee prescribed by the State Board of Health
21 pursuant to NRS 457.240, in addition to the fees imposed pursuant
22 to NRS 449.050.

23 **Sec. 10.** NRS 449.160 is hereby amended to read as follows:

24 449.160 1. The Division may deny an application for a
25 license or may suspend or revoke any license issued under the
26 provisions of NRS 449.029 to 449.2428, inclusive, upon any of the
27 following grounds:

28 (a) Violation by the applicant or the licensee of any of the
29 provisions of NRS 439B.410 or 449.029 to 449.245, inclusive, or of
30 any other law of this State or of the standards, rules and regulations
31 adopted thereunder.

32 (b) Aiding, abetting or permitting the commission of any illegal
33 act.

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

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

39 (e) Failure of the applicant to obtain written approval from the
40 Director of the Department of Health and Human Services as
41 required by NRS 439A.100 *or section 2 or 3 of this act* or as
42 provided in any regulation adopted pursuant to NRS 449.001 to
43 449.430, inclusive, and 449.435 to 449.531, inclusive, and chapter
44 449A of NRS if such approval is required **H**, *including, without*



1 *limitation, the closure or conversion of any hospital owned by the*
2 *licensee without approval pursuant to section 2 of this act.*

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

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

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

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

12 (b) Is ordered to but fails to abate a nuisance pursuant to NRS
13 244.360, 244.3603 or 268.4124; or

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

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

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

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

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

28 ➔ The facility shall make the information available to the public
29 pursuant to NRS 449.2486.

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

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

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

37 **Sec. 11.** 1. Notwithstanding the provisions of section 3 of
38 this act, a person who has commenced a project before January 1,
39 2024, for the establishment of an independent center for emergency
40 medical care is not required to obtain the written approval of the
41 Director of the Department of Health and Human Services to
42 continue that project.

43 2. Notwithstanding the amendatory provisions of section 6 of
44 this act, an independent center for emergency medical care which is
45 owned by the same owner as another medical facility or facility for



1 the dependent and operating under the same license as that medical
2 facility or facility for the dependent may continue to operate without
3 a separate license until July 1, 2024. Such an independent center for
4 emergency medical care is not required to obtain the written
5 approval of the Director of the Department of Health and Human
6 Services pursuant to section 3 of this act to obtain a separate license.

7 3. As used in this section:

8 (a) "Independent center for emergency medical care" has the
9 meaning ascribed to it in NRS 449.013.

10 (b) "Medical facility" has the meaning ascribed to it in
11 NRS 449.0151.

12 **Sec. 12.** 1. This section becomes effective upon passage and
13 approval.

14 2. Sections 1 to 11, inclusive, of this act become effective:

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

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

