

Amendment No. 128

Assembly Amendment to Assembly Bill No. 263	(BDR 40-125)
Proposed by: Assembly Committee on Health and Human Services	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date		SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

ERS/HAC



Date: 4/10/2023

A.B. No. 263—Enacts provisions relating to the transmission of Legionnaires’ disease by building water systems in certain health care facilities. (BDR 40-125)



ASSEMBLY BILL NO. 263—ASSEMBLYMAN WATTS

MARCH 7, 2023

Referred to Committee on Health and Human Services

SUMMARY—Enacts provisions relating to the transmission of Legionnaires’ disease by building water systems in certain health care facilities. (BDR 40-125)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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 water; enacting provisions relating to the transmission of Legionnaires’ disease by ~~certain~~ building water systems in covered health care facilities; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Board of Health to adopt regulations governing the control of communicable diseases in this State, including regulations specifically relating to the control of such diseases in educational, medical and correctional institutions. (NRS 441A.120) Existing law also establishes requirements for: (1) a provider of health care, medical facility or laboratory director to report if a person has or is suspected of having a communicable disease; and (2) the health authority to investigate such reports. (NRS 441A.150-441A.165) This bill establishes certain requirements for the building water systems in covered health care facilities to limit the risk of the transmission of Legionnaires’ disease.

Section 5 of this bill defines the term “covered health care facility” to mean a health care facility ~~that~~ **that receives federal or state money through Medicare or Medicaid**; (1) in which a patient’s stay may exceed 24 hours; (2) that contains one or more areas to house and treat patients receiving treatment for burns, chemotherapy, solid organ transplantation or bone marrow transplantation; ~~or~~ (3) that contains one or more areas to house ~~and treat~~ patients who are immunocompromised ~~and~~ **and** at-risk ~~individuals~~ **persons** on medications that weaken the immune system or ~~who have renal disease~~; diabetes or chronic lung disease ~~;~~ **or (4) that is a residential facility for groups.**

Sections ~~3, 4~~ 2.5-4 and 6-8 of this bill define certain other terms relating to the provisions of this bill for covered health care facilities.

Section 9 of this bill requires each owner or operator of a covered health care facility to adopt and implement a water management plan for the building water system to minimize the risks of the transmission of Legionnaires’ disease by the building water system, which, among other requirements, must: (1) **with certain exceptions**, be designed by a water management team that includes persons holding certain certifications relating to water management and infection control; and (2) include provisions for ~~sampling of~~ **monitoring** the water from the building water system. ~~at certain specified locations.~~ **Section 9** further requires the owner or

operator of the covered health care facility to review the water management plan on an annual basis.

~~Section 10 of this bill requires each owner or operator of a covered health care facility with a cooling tower to adopt and implement a maintenance program and plan for each cooling tower which must include a schedule for routine bacteriological culture sampling and analysis and Legionella culture sampling and analysis at certain intervals and upon the occurrence of certain events.~~

Section 8.5 of this bill requires the Administrator of the Division of Public and Behavioral Health of the Department of Health and Human Services to review each new edition of certain standards relating to water management and Legionellosis for the purposes of the provisions of sections 2-14 of this bill.

Section 11 of this bill requires a provider of health care, medical facility or laboratory director to immediately notify the health authority upon the suspicion or positive diagnosis of Legionnaires' disease connected to a covered health care facility.

Section 12 of this bill requires the Board to adopt regulations to carry out the provisions of sections 2-14. ~~of this bill.~~

Section 13 of this bill requires the Board to submit a report to the Governor and the Director of the Legislative Counsel Bureau detailing the occurrence of Legionnaires' disease in this State.

Section 14 of this bill provides that a covered health care facility that violates the provisions of sections 2-14 or any regulation adopted or order issued pursuant thereto is a public nuisance and ~~may be abated by the health authority.~~ **requires the covered health care facility to abate the nuisance.**

As a result of the inclusion of sections 2-14 in chapter 441A of NRS, a person who violates the provisions of sections 2-14 is guilty of a misdemeanor. **(NRS 441A.910)**

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

Section 1. Chapter 441A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. *As used in sections 2 to 14, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections ~~7-9~~ 2.5 to 8, inclusive, of this act, have the meanings ascribed to them in those sections.*

Sec. 2.5. **“Administrator” means the Administrator of the Division of Public and Behavioral Health of the Department of Health and Human Services.**

Sec. 3. **“ASSE Series 12000” means the most recent edition of the ASSE/IAPMO/ANSI Series ~~12000-2021~~ 12000, Professional Qualifications Standard for Water Management and Infection Control Risk Assessment for Building Systems, published by ASSE International, or its successor organization ~~17~~ and approved by the Administrator pursuant to section 8.5 of this act.**

Sec. 4. **“Building water system” means a potable or non-potable water system in a building or building site . ~~including, without limitation, a water supply system, decorative water feature, evaporative cooler or condenser, whirlpool, humidification system or any other aerosolizing water feature.~~**

Sec. 5. **“Covered health care facility” means a health care facility ~~17~~ that receives federal or state money through Medicare or Medicaid:**

1. *Where a patient’s length of stay may exceed 24 hours;*
2. *That contains one or more areas for housing or treating patients that are receiving treatment for burns, chemotherapy, organ transplants or bone marrow transplants; ~~17~~*
3. *That contains one or more areas for housing ~~17~~ ~~for treating~~ patients that are immunocompromised ~~17~~ and at-risk ~~17~~ ~~individuals~~ **persons** taking medications*

1 that weaken the immune system or who have renal disease, diabetes or chronic
2 lung disease ~~}; or~~

3 4. That is a residential facility for groups.

4 Sec. 6. "Health care facility" means any facility licensed pursuant to
chapter 449 of NRS.

6 Sec. 7. "Legionnaires' disease" means a pulmonary disease caused by the
7 Legionella bacterium.

8 Sec. 7.5. "Residential facility for groups" has the meaning ascribed to it in
9 NRS 449.017.

10 Sec. 8. "Standard 188" means the most recent edition of ANSI/ASHRAE
11 Standard ~~188-2018,~~ 188, Legionellosis: Risk Management for Building Water
12 Systems, published by the American Society of Heating, Refrigerating and Air-
13 Conditioning Engineers, Inc. or its successor organization ~~}; and approved by~~
14 the Administrator pursuant to section 8.5 of this act.

15 Sec. 8.5. 1. The Administrator shall review each new edition of:

16 (a) ASSE Series 12000 that is published after the 2021 edition; and

17 (b) Standard 188 that is published after the 2018 edition.

18 2. Each new edition reviewed by the Administrator pursuant to subsection 1
19 shall be deemed approved unless the Administrator issues a formal declaration
20 within 90 days after publication of the new edition that the edition is not suitable
21 for this State.

22 Sec. 9. 1. Each owner or operator of a covered health care facility shall
23 adopt and implement a water management program to minimize the growth and
24 transmission of Legionella bacteria in the building water system in accordance
25 with the provisions of sections 2 to 14, inclusive, of this act and any regulations
26 adopted pursuant thereto.

27 2. The water management program required pursuant to subsection 1 must,
28 without limitation:

29 (a) Be ~~consistent~~ designed and administered in accordance with ~~the most~~
30 ~~recent version of~~ Standard 188;

31 (b) ~~Be~~ Except as otherwise provided in subsection 5, be designed by a water
32 management team that includes, without limitation:

33 (1) At least one person who holds the Water Quality Program
34 Certification for Employers and Designated Representatives, ASSE 12060; and

35 (2) At least one person who holds the Legionella Water Safety and
36 Management Personnel Certification, ASSE 12080;

37 (c) Require that any work or services necessary to administer the water
38 management program, including, without limitation, ~~testing,~~ culture sampling
39 and analysis, cleaning, flushing, disinfecting, ~~testing,~~ prevention, control or
40 remediation measures, are performed by persons and organizations that have
41 been certified in accordance with the most recent edition of ASSE Series 12000;

42 (d) Establish procedures to ~~confirm,~~ validate, as an initial matter and on an
43 ongoing basis, that the water management plan has been implemented as
44 designed and that the program is effectively controlling any hazardous conditions
45 throughout the building water system; and

46 (e) Establish procedures to ~~conduct sampling and analysis of~~ monitor the
47 building water system in accordance with subsection 3 and any regulations
48 adopted by the Board pursuant to section 12 of this act.

49 3. A water management program adopted pursuant to this section must set
50 forth requirements to ~~sample,~~ monitor the building water system for the
51 presence of Legionella bacteria, ~~at the following locations, as applicable:~~

52 ~~(a) At least one sample of the inlet cold water supply at the first available tap;~~

~~1 (b) One sample from the return piping of the circulated potable water
2 system;~~

~~3 (c) One sample from the outlet of a heating system;~~

~~4 (d) Except as otherwise provided in paragraph (c), at least three samples
5 collected from each floor as follows:~~

~~6 (1) One sample from the tap closest to first delivery of hot water from the
7 riser;~~

~~8 (2) One sample from the middle of the water system; and~~

~~9 (3) One sample from the last outlet before the water returns to the piping
10 that conveys water back to the heater;~~

~~11 (e) If there are extensive lengths of piping and complex paths, one additional
12 sample collected from each floor in accordance with paragraph (d);~~

~~13 (f) During an investigation of an occurrence or potential occurrence of
14 Legionnaires' disease, at least one sample from any portion of the building water
15 system that serves a location in the covered health care facility that houses
16 affected patients or residents;~~

~~17 (g) If risers supply multiple circulation loops with each loop providing water
18 to a group of rooms, samples from locations served by each loop; and~~

~~19 (h) During an initial assessment of a covered health care facility, a surface
20 sample at locations representing the middle or end of the hot water line on each
21 floor.]~~

22 **4. The owner or operator of a covered health care facility shall:**

23 (a) Except as otherwise provided in this paragraph, review the water
24 management program and the ~~[sampling and analysis]~~ monitoring of the
25 building water system conducted in accordance with the program on an annual
26 basis. The owner or operator shall conduct an additional review of the water
27 management program and ~~[sampling and analysis]~~ monitoring of the building
28 water system if:

29 (1) One or more cases of Legionnaires' disease are or may be associated
30 with the covered health care facility;

31 (2) Construction, modification or repair work has been completed which
32 may affect the building water system;

33 (3) The hematopoietic stem cell transplant and solid organ transplant
34 units, if present, are expanded or relocated; or

35 (4) Any other event determined by the Board that requires additional
36 review.

37 (b) Maintain records of the water management program and all ~~[sampling]~~
38 monitoring details and results for at least 3 years. Such records must be made
39 available for inspection by the Board or health authority upon request.

40 5. The requirements of paragraph (b) of subsection 2 do not apply to a rural
41 clinic, rural hospital or hospital that has been certified as a critical access
42 hospital by the Secretary of Health and Human Services pursuant to 42 U.S.C. §
43 1395i-4(e).

44 6. As used in this section:

45 (a) "Rural clinic" has the meaning ascribed to it in NRS 449.0175.

46 (b) "Rural hospital" has the meaning ascribed to it in NRS 449.0177.

47 **Sec. 10.** ~~[1. In addition to the requirements set forth in section 9 of this~~
48 ~~act, the owner or operator of a covered health care facility with a cooling tower~~
49 ~~system shall adopt and operate a maintenance program and plan for each cooling~~
50 ~~tower that has been developed in accordance with Standard 189, which must,~~
51 ~~without limitation:~~

52 ~~(a) Establish a schedule for:~~

~~(1) Routine bacteriological culture sampling and analysis to assess microbiological activity at intervals not to exceed 30 days while the cooling tower is in use, which must include, without limitation, additional bacteriological culture sampling and analysis as needed to validate process adjustments.~~

~~(2) Routine Legionella culture sampling and analysis beginning not less than 14 days after the first day of the beginning of the seasonal use of the cooling tower and proceeding at intervals of not more than 90 days while the cooling tower is in use. If the cooling tower is used year-round, the schedule must require sampling and analysis at intervals of not more than 90 days and within 14 days following any maintenance that requires restarting the cooling tower.~~

~~(b) Establish requirements for immediate Legionella culture sampling and analysis:~~

~~(1) In the event of power failure of sufficient duration to allow for the growth of bacteria;~~

~~(2) In the event of the loss of biocide treatment of sufficient duration to allow for the growth of bacteria;~~

~~(3) In the event of the failure of conductivity control or any other control method to maintain proper cycles of concentration;~~

~~(4) If the Board or health authority determines, based on epidemiologic data or laboratory testing, that one or more cases of Legionnaires' disease is or may be associated with the cooling tower; or~~

~~(5) If any other event occurs that requires immediate sampling and analysis as determined by the Board.~~

~~(c) Include a shutdown and disinfection plan for removing or permanently discontinuing the use of the cooling tower;~~

~~(d) Require the treatment and manual or automated flushing of any piping, basin, sump or wetted surface in idle conditions; and~~

~~(e) Require the cleaning and disinfection of the cooling tower before start up if the cooling tower has been shut down without treatment and recirculation for more than 5 consecutive days.~~

~~2. The operator or owner of the covered health care facility with a cooling tower shall ensure that any work or services for the cooling tower required by Standard 188 or the maintenance program and plan adopted pursuant to subsection 1, including, without limitation, testing, culture sampling and analysis, cleaning, flushing, disinfecting, testing, prevention, control or remediation measures, are performed by persons and organizations that have been certified in accordance with the most recent edition of ASSE Series 12000.~~

~~(Deleted by amendment.)~~

Sec. 11. Pursuant to NRS 441A.150, a provider of health care, medical facility or a laboratory director shall, in the manner prescribed by the Board, immediately notify the health authority upon a suspicion or positive diagnosis of Legionnaires' disease in a covered health care facility. The health authority shall investigate the matter pursuant to NRS 441A.160 or 441A.163, as applicable.

Sec. 12. The Board shall adopt regulations to carry out the provisions of sections 2 to 14, inclusive, of this act, including, without limitation, requirements for sampling sites, monitoring and testing for *Legionella* bacteria in the building water system of a covered health care facility. ~~For potable water systems, such regulation must include, without limitation:~~

~~1. Legionella culture sampling sites; and~~

~~2. Provisions requiring Legionella culture sampling and analysis.~~

~~(a) At intervals of not more than 90 days for the first year following the adoption of a sampling and management plan by the owner or operator of a covered health care facility;~~

~~(b) Except as otherwise provided in paragraph (c), after the first year following the adoption of a sampling and management plan, at least annually, and~~

~~(c) If a potable water system will serve a covered health care facility for hematopoietic stem cell transplants or solid organ transplants, at intervals of not more than 90 days.~~

Sec. 13. *On or before January 31 of each year, the Board shall prepare and submit to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature or, if the Legislature is not in session, to the Joint Interim Standing Committee on Health and Human Services, a report detailing the occurrence of Legionnaires' disease in this State which must include, without limitation:*

1. The number of cases of Legionnaires' disease in this State for each of the ~~previous~~ immediately preceding 10 years;

2. The number of positive Legionella culture test results reported to the Board for the ~~previous~~ immediately preceding year;

3. The number and types of violations of the provisions of sections 2 to 14, inclusive, of this act; and

4. Any recommendations of the Board for legislation necessary to further control Legionella bacteria in the water systems of covered health care facilities.

Sec. 14. *Any covered health care facility in violation of the provisions of sections 2 to 14, inclusive, of this act, or any regulation adopted or order issued pursuant thereto, is hereby declared to be a public nuisance. ~~Such~~ A covered health facility shall abate any such nuisance. ~~may be abated or enjoined in an action brought by the health authority. The health authority may recover the costs of abating the public nuisance.~~*

Sec. 15. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 16. 1. This section and section 15 of this act become effective upon passage and approval.

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

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

(b) On January 1, ~~2024,~~ **2025**, for all other purposes.