

Assembly Bill No. 131–Committee on
Health and Human Services

CHAPTER.....

AN ACT relating to health care; providing for the licensing and regulation of providers of community-based living arrangement services as facilities for the dependent; prohibiting certain convicted persons from serving as an operator, employee or contractor of a provider of community-based living arrangement services; requiring certain employment agencies to be licensed; requiring the statewide information and referral system to provide certain nonemergency information and referrals; requiring the Legislative Committee on Health Care to conduct a study concerning standards of training for unlicensed persons who provide care at certain facilities or homes or through certain agencies or providers; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law defines the term “community-based living arrangement services” to mean flexible, individualized services that are: (1) provided in the home, for compensation, to persons with mental illness or persons with developmental disabilities; and (2) designed and coordinated to assist such persons in maximizing their independence. (NRS 433.605) Existing law requires each provider of community-based living arrangement services to obtain a certificate from the Division of Public and Behavioral Health of the Department of Health and Human Services. (NRS 433.607) Existing law also requires each facility for the dependent to be licensed by the Division. (NRS 449.030) **Section 16** of this bill repeals existing provisions governing community-based living arrangement services. **Section 3** of this bill instead requires a provider of community-based living arrangement services to be licensed and regulated as a facility for the dependent. Providing community-based living arrangement services without such a license is made to be a misdemeanor. (NRS 449.210)

Existing law requires an applicant for a license to operate certain facilities, hospitals, agencies, programs or homes and each employee or independent contractor of such a facility, hospital, agency, program or home to receive a criminal background check. (NRS 449.122, 449.123) Existing law prohibits a person from operating or serving as an employee or contractor for such a facility, hospital, agency, program or home if the person has been convicted of certain crimes. (NRS 449.125, 449.174) **Sections 5 and 6** of this bill apply those requirements to providers of community-based living arrangement services and employees and contractors of such providers. Providing false information in connection with the required background check is made to be a misdemeanor. (NRS 449.123) **Section 7** of this bill requires certain inspections of a provider of community-based living arrangement services. **Section 8** of this bill requires a provider of community-based living arrangement services to notify a person receiving such services from the provider, his or her parent or guardian or another designated person upon the discovery by the Division of a deficiency affecting the health and safety of a patient. **Section 10** of this bill provides a recipient of community-based living arrangement services with the same rights as recipients of



services from other facilities for the dependent. **Sections 1, 2, 9, 12, 13 and 15** of this bill make conforming changes.

Existing law requires an employment agency that contracts with persons to provide nonmedical services related to personal care to elderly persons or persons with disabilities in the home to obtain a license from the State Board of Health. (NRS 449.03005) **Section 4** of this bill clarifies that this requirement applies when the contracted services are provided in this State, regardless of where the employment agency is located.

Existing law requires the Department to establish and maintain a statewide information and referral system to provide nonemergency information and referrals to the general public concerning the health, welfare, human and social services provided by public or private entities in this State. That system must be accessible to a person using the public telephone system by dialing the digits 2-1-1. (NRS 232.359) **Section 11** of this bill requires that system to include information concerning the licensing status of any medical facility or facility for the dependent and certain other entities. **Section 11** also requires the Department to review and update such information at least quarterly.

Assembly Bill No. 299 of the 2017 Legislative Session required the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs to conduct a study during the 2017-2018 interim concerning standards of training for persons who are not providers of health care and who provide care to a person through employment or a contractual arrangement with certain entities. (Chapter 279, Statutes of Nevada 2017, p. 1490) **Section 14** of this bill requires the Legislative Committee on Health Care to conduct a similar study during the 2019-2020 interim. **Section 14** requires the study to: (1) compare standards of training required by different entities; and (2) determine whether employees and contractors of such entities should be required to complete training concerning a minimum set of competencies or complete a minimum amount of training.

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

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

Section 1. NRS 439B.225 is hereby amended to read as follows:

439B.225 1. As used in this section, “licensing board” means any division or board empowered to adopt standards for the issuance or renewal of licenses, permits or certificates of registration pursuant to NRS ~~[433.601 to 433.621, inclusive.]~~ 435.3305 to 435.339, inclusive, chapter 449, 625A, 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637B, 639, 640, 640A, 640D, 641, 641A, 641B, 641C, 652 or 654 of NRS.

2. The Committee shall review each regulation that a licensing board proposes or adopts that relates to standards for the issuance or renewal of licenses, permits or certificates of registration issued to a person or facility regulated by the board, giving consideration to:



(a) Any oral or written comment made or submitted to it by members of the public or by persons or facilities affected by the regulation;

(b) The effect of the regulation on the cost of health care in this State;

(c) The effect of the regulation on the number of licensed, permitted or registered persons and facilities available to provide services in this State; and

(d) Any other related factor the Committee deems appropriate.

3. After reviewing a proposed regulation, the Committee shall notify the agency of the opinion of the Committee regarding the advisability of adopting or revising the proposed regulation.

4. The Committee shall recommend to the Legislature as a result of its review of regulations pursuant to this section any appropriate legislation.

Sec. 2. NRS 449.0026 is hereby amended to read as follows:

449.0026 “Community-based living arrangement services” ~~has the meaning ascribed to it in NRS 433.605.~~ *means flexible, individualized services, including, without limitation, training and habilitation services, that are:*

1. Provided in the home, for compensation, to persons with mental illness who are served by the Division or any other entity; and

2. Designed and coordinated to assist such persons in maximizing their independence.

Sec. 3. NRS 449.0045 is hereby amended to read as follows:

449.0045 “Facility for the dependent” includes:

1. A facility for the treatment of abuse of alcohol or drugs;
2. A halfway house for recovering alcohol and drug abusers;
3. A facility for the care of adults during the day;
4. A residential facility for groups;
5. An agency to provide personal care services in the home;
6. A facility for transitional living for released offenders;
7. A home for individual residential care;
8. A peer support recovery organization; ~~and~~
9. A community health worker pool ~~;~~ *and*

10. A provider of community-based living arrangement services.

Sec. 4. NRS 449.03005 is hereby amended to read as follows:

449.03005 1. Except as otherwise provided in NRS 449.03017, a person must obtain a license from the Board to operate an employment agency that contracts with persons *in this State* to provide nonmedical services related to personal care to elderly



persons or persons with disabilities in the home **H**, *regardless of whether the agency is located in this State.*

2. The Board shall adopt:

(a) Standards for licensing of employment agencies that provide nonmedical services related to personal care to elderly persons or persons with disabilities in the home;

(b) Standards relating to the fees charged by such employment agencies;

(c) Regulations governing the licensing of such employment agencies; and

(d) Regulations establishing requirements for training the persons who contract with such employment agencies to provide such nonmedical services.

3. An employment agency that is licensed pursuant to this section shall not refer a person to a home to provide nonmedical services related to personal care to elderly persons or persons with disabilities if that person has not met the requirements set forth in NRS 449.115 to 449.125, inclusive.

4. A person who violates the provisions of subsection 3 is liable for a civil penalty to be recovered by the Attorney General in the name of the Board for the first offense of not more than \$10,000 and for a second or subsequent offense of not less than \$10,000 nor more than \$20,000. Unless otherwise required by federal law, the Board shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used to administer and carry out the provisions of NRS 449.001 to 449.430, inclusive, 449.435 to 449.531, inclusive, and chapter 449A of NRS and to protect the health, safety, well-being and property of the persons served by employment agencies.

Sec. 5. NRS 449.089 is hereby amended to read as follows:

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

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

(b) Obtained the approval of the Director of the Department of Health and Human Services before undertaking a project, if such approval is required by NRS 439A.100; or

(c) Conformed to all applicable local zoning regulations.



2. Each reapplication for an agency to provide personal care services in the home, an agency to provide nursing in the home, a community health worker pool, a facility for intermediate care, a facility for skilled nursing, *a provider of community-based living arrangement services*, a hospital described in 42 U.S.C. § 1395ww(d)(1)(B)(iv) which accepts payment through Medicare, a psychiatric hospital that provides inpatient services to children, a psychiatric residential treatment facility, a residential facility for groups, a program of hospice care, a home for individual residential care, a facility for the care of adults during the day, a facility for hospice care, a nursing pool, a peer support recovery organization, the distinct part of a hospital which meets the requirements of a skilled nursing facility or nursing facility pursuant to 42 C.F.R. § 483.5, a hospital that provides swing-bed services as described in 42 C.F.R. § 482.58 or, if residential services are provided to children, a medical facility or facility for the treatment of abuse of alcohol or drugs must include, without limitation, a statement that the facility, hospital, agency, program, pool, organization or home is in compliance with the provisions of NRS 449.115 to 449.125, inclusive, and 449.174.

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

Sec. 6. NRS 449.119 is hereby amended to read as follows:

449.119 “Facility, hospital, agency, program or home” means an agency to provide personal care services in the home, an employment agency that contracts with persons to provide nonmedical services related to personal care to elderly persons or persons with disabilities in the home, an agency to provide nursing in the home, a community health worker pool, a facility for intermediate care, a facility for skilled nursing, *a provider of community-based living arrangement services*, a hospital described in 42 U.S.C. § 1395ww(d)(1)(B)(iv) which accepts payment through Medicare, a psychiatric hospital that provides inpatient services to children, a psychiatric residential treatment facility, a peer support recovery organization, a residential facility for groups, a program of hospice care, a home for individual residential care, a facility for the



care of adults during the day, a facility for hospice care, a nursing pool, the distinct part of a hospital which meets the requirements of a skilled nursing facility or nursing facility pursuant to 42 C.F.R. § 483.5, a hospital that provides swing-bed services as described in 42 C.F.R. § 482.58 or, if residential services are provided to children, a medical facility or facility for the treatment of abuse of alcohol or drugs.

Sec. 7. NRS 449.131 is hereby amended to read as follows:

449.131 1. Any authorized member or employee of the Division may enter and inspect any building or premises at any time to secure compliance with or prevent a violation of any provision of NRS 449.029 to 449.245, inclusive.

2. The State Fire Marshal or a designee of the State Fire Marshal shall, upon receiving a request from the Division or a written complaint concerning compliance with the plans and requirements to respond to an emergency adopted pursuant to subsection 9 of NRS 449.0302:

(a) Enter and inspect a residential facility for groups ~~or~~ *or a building operated by a provider of community-based living arrangement services in which such services are provided;* and

(b) Make recommendations regarding the adoption of plans and requirements pursuant to subsection 9 of NRS 449.0302,
↳ to ensure the safety of the residents of the facility *or persons receiving care from the provider, as applicable,* in an emergency.

3. The Chief Medical Officer or a designee of the Chief Medical Officer shall enter and inspect at least annually each building or the premises of a residential facility for groups *and each building operated by a provider of community-based living arrangement services in which such services are provided* to ensure compliance with standards for health and sanitation.

4. An authorized member or employee of the Division shall enter and inspect any building or premises operated by a residential facility for groups *or provider of community-based living arrangement services* within 72 hours after the Division is notified that a residential facility for groups *or provider of community-based living arrangement services* is operating without a license.

Sec. 8. NRS 449.134 is hereby amended to read as follows:

449.134 A facility for intermediate care, facility for skilled nursing, residential facility for groups , *provider of community-based living arrangement services* or home for individual residential care shall immediately provide notice of a deficiency affecting the health and safety of a patient discovered during the course of an inspection of the facility for intermediate care, facility



for skilled nursing, residential facility for groups, *provider of community-based living arrangement services* or home for individual residential care conducted by the Division to:

1. A person receiving care at the facility or home ~~[:] or from the provider, as applicable;~~

2. The parent or legal guardian of the person receiving care at the facility or home ~~[:] or from the provider, as applicable;~~ or

3. Any other natural person designated to receive such notice by the person receiving care at the facility or home *or from the provider, as applicable*, or the parent or guardian of the person.

Sec. 9. NRS 449A.009 is hereby amended to read as follows:

449A.009 “Community-based living arrangement services” has the meaning ascribed to it in NRS ~~[433.605.]~~ *449.0026.*

Sec. 10. NRS 449A.031 is hereby amended to read as follows:

449A.031 “Facility for the dependent” ~~[includes:~~

- ~~—1. A facility for the treatment of abuse of alcohol or drugs;~~
- ~~—2. A halfway house for recovering alcohol and drug abusers;~~
- ~~—3. A facility for the care of adults during the day;~~
- ~~—4. A residential facility for groups;~~
- ~~—5. An agency to provide personal care services in the home;~~
- ~~—6. A facility for transitional living for released offenders;~~
- ~~—7. A home for individual residential care;~~
- ~~—8. A peer support recovery organization; and~~
- ~~—9. A community health worker pool.]~~ *has the meaning ascribed to it in NRS 449.0045.*

Sec. 11. NRS 232.359 is hereby amended to read as follows:

232.359 1. The Department, in collaboration with any state or local agencies or community-based organizations which provide information and referral services concerning health, welfare, human and social services and any group established by the Governor to implement a statewide information and referral system concerning health, welfare, human and social services, shall establish and maintain a statewide information and referral system to provide nonemergency information and referrals to the general public concerning the health, welfare, human and social services provided by public or private entities in this State. The system must:

(a) Integrate any information and referral systems previously established by state agencies, local agencies or community-based organizations with the system established pursuant to this section;

(b) Be the sole system in this State which is accessible to a person by dialing the digits 2-1-1 and which provides nonemergency information and referrals to the general public concerning the



health, welfare, human and social services provided by public or private entities in this State;

(c) Be accessible to a person using the public telephone system by dialing the digits 2-1-1; ~~and~~

(d) ~~Include~~ *Except as otherwise provided in paragraph (e), include* information that is updated periodically ~~[-]~~; *and*

(e) Include information concerning the licensing status of any entity licensed pursuant to chapter 449 of NRS that is reviewed and updated at least quarterly.

2. In establishing the statewide information and referral system, the Department, any state or local agencies or community-based organizations which provide information and referral services concerning health, welfare, human and social services and any group established by the Governor to implement a statewide information and referral system concerning health, welfare, human and social services shall consult with representatives of:

(a) The Public Utilities Commission of Nevada;

(b) Telephone companies which provide service through a local exchange in this State;

(c) Companies that provide wireless phone services in this State;

(d) Existing information and referral services established by state agencies, local agencies or community-based organizations;

(e) State and local agencies or other organizations that provide health, welfare, human and social services;

(f) Nonprofit organizations; and

(g) Such other agencies, entities and organizations as determined necessary by the Department, any state or local agencies or community-based organizations which provide information and referral services concerning health, welfare, human and social services or any group established by the Governor to implement a statewide information and referral system concerning health, welfare, human and social services.

3. The Public Utilities Commission of Nevada, each telephone company which provides service through a local exchange in this State and each company that provides wireless phone services in this State shall cooperate with the Department, any state or local agencies or community-based organizations which provide information and referral services concerning health, welfare, human and social services and any group established by the Governor to implement a statewide information and referral system concerning health, welfare, human and social services in the establishment of the statewide information and referral system.



Sec. 12. NRS 433.806 is hereby amended to read as follows:

433.806 1. Any person or entity, including, without limitation, the Division, that determines the placement of a person with a mental illness or a person with a developmental disability in a mental health facility, medical facility, ~~, [or] facility for the dependent [, with a provider of community-based living arrangement services]~~ or any other placement shall, when making such a determination, consider whether the mental health facility, medical facility, facility for the dependent ~~[, provider of community-based living arrangement services]~~ or other placement is capable of:

(a) Adequately addressing the needs of the person for care and services, including, without limitation, the administration of medication; and

(b) Ensuring the safety of the person in the event of a fire or other emergency.

2. As used in this section:

(a) ~~["Community based living arrangement services" has the meaning ascribed to it in NRS 433.605.~~

~~(b)]~~ "Facility for the dependent" has the meaning ascribed to it in NRS 449.0045.

~~[(e)]~~ (b) "Medical facility" has the meaning ascribed to it in NRS 449.0151.

Sec. 13. NRS 632.316 is hereby amended to read as follows:

632.316 The provisions of NRS 632.315 do not prohibit:

1. Gratuitous nursing by friends or by members of the family of a patient.

2. The incidental care of the sick by domestic servants or persons primarily employed as housekeepers as long as they do not practice nursing within the meaning of this chapter.

3. Nursing assistance in the case of an emergency.

4. The practice of nursing by students enrolled in accredited schools of nursing or by graduates of those schools or courses pending the results of the first licensing examination scheduled by the Board following graduation. A student or graduate may not work as a nursing assistant unless the student or graduate is certified to practice as a nursing assistant pursuant to the provisions of this chapter.

5. The practice of nursing in this State by any legally qualified nurse or nursing assistant of another state whose engagement requires the nurse or nursing assistant to accompany and care for a patient temporarily residing in this State during the period of one such engagement, not to exceed 6 months, if the person does not represent or hold himself or herself out as a nurse licensed to



practice in this State or as a nursing assistant who holds a certificate to practice in this State.

6. The practice of any legally qualified nurse of another state who is employed by the United States Government, or any bureau, division or agency thereof, while in the discharge of his or her official duties in this State, including, without limitation, providing medical care in a hospital in accordance with an agreement entered into pursuant to NRS 449.2455.

7. Nonmedical nursing for the care of the sick, with or without compensation, if done by the adherents of, or in connection with, the practice of the religious tenets of any well-recognized church or religious denomination, if that nursing does not amount to the practice of practical or professional nursing as defined in NRS 632.017 and 632.018, respectively.

8. A personal assistant from performing services for a person with a disability pursuant to NRS 629.091.

9. A natural person from providing community-based living arrangement services if:

(a) That person has been issued a ~~certificate~~ *license* pursuant to ~~[NRS 433.601 to 433.621, inclusive,]~~ *chapter 449 of NRS* and the regulations adopted pursuant ~~[to NRS 433.609,]~~ *thereto*; or

(b) That person is employed or retained as an independent contractor by a partnership, firm, corporation or association, state or local government or agency thereof that has been issued a ~~certificate~~ *license* pursuant to ~~[NRS 433.601 to 433.621, inclusive,]~~ *chapter 449 of NRS* and the regulations adopted pursuant ~~[to NRS 433.609,]~~ *thereto*.

➤ As used in this subsection, “community-based living arrangement services” has the meaning ascribed to it in NRS ~~[433.605,]~~ *449.0026*.

10. A natural person from providing supported living arrangement services if:

(a) That person has been issued a certificate pursuant to NRS 435.3305 to 435.339, inclusive, and the regulations adopted pursuant to NRS 435.3305 to 435.339, inclusive; or

(b) That person is employed or retained as an independent contractor by a partnership, firm, corporation or association, state or local government or agency thereof that has been issued a certificate pursuant to NRS 435.3305 to 435.339, inclusive, and the regulations adopted pursuant to NRS 435.3305 to 435.339, inclusive.

➤ As used in this subsection, “supported living arrangement services” has the meaning ascribed to it in NRS 435.3315.



Sec. 14. 1. The Legislative Committee on Health Care shall conduct a study during the 2019-2020 interim concerning standards of training for natural persons who are not providers of health care and who provide care to a person through employment or a contractual arrangement with a facility for intermediate care, facility for skilled nursing, facility for the care of adults during the day, residential facility for groups, home for individual residential care, an agency to provide nursing in the home, an agency to provide personal care services in the home or a provider of community-based living arrangement services or supported living arrangement services.

2. In conducting the study, the Legislative Committee on Health Care shall:

(a) Compare standards of training required by different entities described in subsection 1; and

(b) Determine whether the natural persons described in subsection 1 should be required to complete training concerning a minimum set of competencies or complete a minimum amount of training. If the Legislative Committee on Health Care determines that such requirements should be imposed, the Committee shall determine whether any class of natural persons described in subsection 1 should be exempt from those requirements.

3. The Legislative Committee on Health Care shall submit a report of the results of the study conducted pursuant to this section and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the Legislature not later than September 1, 2020.

4. As used in this section:

(a) “Agency to provide nursing in the home” has the meaning ascribed to it in NRS 449.0015.

(b) “Agency to provide personal care services in the home” has the meaning ascribed to it in NRS 449.0021.

(c) “Community-based living arrangement services” has the meaning ascribed to it in NRS 449.0026, as amended by section 2 of this act.

(d) “Facility for intermediate care” has the meaning ascribed to it in NRS 449.0038.

(e) “Facility for skilled nursing” has the meaning ascribed to it in NRS 449.0039.

(f) “Facility for the care of adults during the day” has the meaning ascribed to it in NRS 449.004.

(g) “Home for individual residential care” has the meaning ascribed to it in NRS 449.0105.



(h) “Residential facility for groups” has the meaning ascribed to it in NRS 449.017.

(i) “Supported living arrangement services” has the meaning ascribed to it in NRS 435.3315.

Sec. 15. 1. A certificate to provide community-based living arrangement services issued pursuant to NRS 433.601 to 433.621, inclusive, that is valid on January 1, 2020, remains valid until its date of expiration, if the holder of the certificate otherwise remains qualified for the issuance or renewal of the certificate on or after January 1, 2020.

2. Any regulations adopted by the State Board of Health pursuant to NRS 433.609 that do not conflict with the provisions of this act shall be deemed to have been adopted pursuant to NRS 449.0302 and continue in effect until amended or repealed. The Legislative Counsel shall, in preparing supplements to the Nevada Administrative Code:

(a) Substitute appropriately the term “license” for the term “certificate” in the regulations described in this subsection; and

(b) Move the regulations described in this subsection from chapter 433 of the Nevada Administrative Code to chapter 449 of the Nevada Administrative Code.

3. Any regulations adopted by the State Board of Health that conflict with any of the provisions of this act are void. The Legislative Counsel shall remove those regulations from the Nevada Administrative Code as soon as practicable after January 1, 2020.

4. As used in this section, “community-based living arrangement services” has the meaning ascribed to it in NRS 449.0026, as amended by section 2 of this act.

Sec. 16. NRS 433.601, 433.603, 433.605, 433.607, 433.609, 433.611, 433.613, 433.615, 433.617, 433.619 and 433.621 are hereby repealed.

Sec. 17. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On January 1, 2020, for all other purposes.

