

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 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: (1) a facility for intermediate care that has been certified by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services; (2) a facility for skilled nursing that has been certified by the Centers; (3) a hospital that has been certified by the Centers; and (4) a hospital that has been certified as a critical access hospital.

Sections 2.5-4, 7 and 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



22 exceptions, be designed by a water management team that includes persons holding
23 certain certifications relating to water management and infection control; and (2)
24 include provisions for monitoring the water from the building water system.
25 **Section 9** further requires the owner or operator of the covered health care facility
26 to review the water management plan on an annual basis.

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

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

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

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

40 **Section 14** of this bill provides that a covered health care facility that violates
41 the provisions of **sections 2-14** or any regulation adopted or order issued pursuant
42 thereto is a public nuisance and requires the covered health care facility to abate the
43 nuisance.

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

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

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

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

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

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

17 **Sec. 4.** *“Building water system” means a potable or non-*
18 *potable water system in a building or building site.*

19 **Sec. 5.** *“Covered health care facility” means:*



1 *1. A facility for intermediate care as defined in NRS 449.0038*
2 *that has been certified by the Centers for Medicare and Medicaid*
3 *Services of the United States Department of Health and Human*
4 *Services;*

5 *2. A facility for skilled nursing as defined in NRS 449.0039*
6 *that has been certified by the Centers for Medicare and Medicaid*
7 *Services of the United States Department of Health and Human*
8 *Services;*

9 *3. A hospital as defined in NRS 449.012 that has been*
10 *certified by the Centers for Medicare and Medicaid Services of the*
11 *United States Department of Health and Human Services; and*

12 *4. A hospital that has been certified as a critical access*
13 *hospital by the Secretary of Health and Human Services pursuant*
14 *to 42 U.S.C. § 1395i-4(e).*

15 **Sec. 6.** (Deleted by amendment.)

16 **Sec. 7.** *“Legionnaires’ disease” means a pulmonary disease*
17 *caused by the Legionella bacterium.*

18 **Sec. 7.5.** (Deleted by amendment.)

19 **Sec. 8.** *“Standard 188” means the most recent edition of*
20 *ANSI/ASHRAE Standard 188, Legionellosis: Risk Management*
21 *for Building Water Systems, published by the American Society of*
22 *Heating, Refrigerating and Air-Conditioning Engineers, Inc. or its*
23 *successor organization, and approved by the Administrator*
24 *pursuant to section 8.5 of this act.*

25 **Sec. 8.5. 1.** *The Administrator shall review each new*
26 *edition of:*

27 *(a) ASSE Series 12000 that is published after the 2021 edition;*
28 *and*

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

30 **2.** *Each new edition reviewed by the Administrator pursuant*
31 *to subsection 1 shall be deemed approved unless the Administrator*
32 *issues a formal declaration within 90 days after publication of the*
33 *new edition that the edition is not suitable for this State.*

34 **Sec. 9. 1.** *Each owner or operator of a covered health care*
35 *facility shall adopt and implement a water management program*
36 *to minimize the growth and transmission of Legionella bacteria in*
37 *the building water system in accordance with the provisions of*
38 *sections 2 to 14, inclusive, of this act and any regulations adopted*
39 *pursuant thereto.*

40 **2.** *The water management program required pursuant to*
41 *subsection 1 must, without limitation:*

42 *(a) Be designed and administered in accordance with Standard*
43 *188;*

44 *(b) Except as otherwise provided in subsection 5, be designed*
45 *by a water management team that includes, without limitation:*



1 (1) At least one person who holds the Water Quality
2 Program Certification for Employers and Designated
3 Representatives, ASSE I2060; and

4 (2) At least one person who holds the Legionella Water
5 Safety and Management Personnel Certification, ASSE I2080;

6 (c) Require that any work or services necessary to administer
7 the water management program, including, without limitation,
8 culture sampling and analysis, cleaning, flushing, disinfecting,
9 prevention, control or remediation measures, are performed by
10 persons and organizations that have been certified in accordance
11 with the most recent edition of ASSE Series I2000;

12 (d) Establish procedures to validate, as an initial matter and
13 on an ongoing basis, that the water management plan has been
14 implemented as designed and that the program is effectively
15 controlling any hazardous conditions throughout the building
16 water system; and

17 (e) Establish procedures to monitor the building water system
18 in accordance with subsection 3 and any regulations adopted by
19 the Board pursuant to section 12 of this act.

20 3. A water management program adopted pursuant to this
21 section must set forth requirements to monitor the building water
22 system for the presence of Legionella bacteria.

23 4. The owner or operator of a covered health care facility
24 shall:

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

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

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

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

37 (4) Any other event determined by the Board that requires
38 additional review.

39 (b) Maintain records of the water management program and
40 all monitoring details and results for at least 3 years. Such records
41 must be made available for inspection by the Board or health
42 authority upon request.

43 5. The requirements of paragraph (b) of subsection 2 do not
44 apply to a rural clinic, rural hospital or hospital that has been



1 *certified as a critical access hospital by the Secretary of Health*
2 *and Human Services pursuant to 42 U.S.C. § 1395i-4(e).*

3 6. *As used in this section:*

4 (a) *“Rural clinic” has the meaning ascribed to it in*
5 *NRS 449.0175.*

6 (b) *“Rural hospital” has the meaning ascribed to it in*
7 *NRS 449.0177.*

8 **Sec. 10.** (Deleted by amendment.)

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

16 **Sec. 12.** *The Board shall adopt regulations to carry out the*
17 *provisions of sections 2 to 14, inclusive, of this act, including,*
18 *without limitation, requirements for sampling sites, monitoring*
19 *and testing for Legionella bacteria in the building water system of*
20 *a covered health care facility and Legionella culture sampling and*
21 *analysis.*

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

29 1. *The number of cases of Legionnaires’ disease in this State*
30 *for each of the immediately preceding 10 years;*

31 2. *The number of positive Legionella culture test results*
32 *reported to the Board for the immediately preceding year;*

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

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

38 **Sec. 14.** *Any covered health care facility in violation of the*
39 *provisions of sections 2 to 14, inclusive, of this act, or any*
40 *regulation adopted or order issued pursuant thereto, is hereby*
41 *declared to be a public nuisance. A covered health facility shall*
42 *abate any such nuisance.*

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



- 1 **Sec. 16.** 1. This section and section 15 of this act become
2 effective upon passage and approval.
3 2. Sections 1 to 14, inclusive, of this act become effective:
4 (a) Upon passage and approval for the purpose of adopting any
5 regulations and performing any other preparatory administrative
6 tasks necessary to carry out the provisions of this act; and
7 (b) On January 1, 2025, for all other purposes.

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