

ASSEMBLY BILL NO. 338—ASSEMBLYWOMAN PETERS

MARCH 20, 2023

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing health care.  
(BDR 38-591)

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 Medicaid; requiring the State Plan for Medicaid to provide coverage of art therapy services to the extent authorized by federal law; requiring the Department of Health and Human Services to apply for a waiver or an amendment of the State Plan to receive federal funding for coverage of art therapy services; requiring any person who wishes to provide art therapy services to a recipient of Medicaid to enroll with the Division of Health Care Financing and Policy of the Department; requiring an enrolled art therapist to report the abuse of certain persons; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

- 1 Existing law requires the Department of Health and Human Services to develop
- 2 and administer the State Plan for Medicaid, which must include specific medical
- 3 services required to be provided to recipients of Medicaid. (NRS 422.063, 422.270)
- 4 Existing law requires: (1) the Director of the Department to include in the State
- 5 Plan a requirement that the State pay the nonfederal share of expenditures for
- 6 certain medical services; and (2) the Department to apply to the United States
- 7 Department of Health and Human Services for a waiver of certain provisions of
- 8 federal law or an amendment of the State Plan to authorize the receipt of federal
- 9 funding to provide certain medical services to recipients of Medicaid. (NRS
- 10 422.270-422.27495) **Section 1** of this bill requires the Director to include in the
- 11 State Plan a requirement that the State pay certain costs for art therapy provided to
- 12 Medicaid recipients. **Section 1** also requires the Department to apply for a waiver
- 13 of federal Medicaid requirements or request to amend the State Plan to receive



14 federal funding to provide coverage of art therapy. Finally, **section 1** requires a  
15 person who wishes to provide art therapy services to a recipient of Medicaid to  
16 enroll with the Division of Health Care Financing and Policy of the Department.  
17 **Section 4** of this bill makes a conforming change by including the duties listed in  
18 **section 1** among the duties the Director of the Department is required to fulfill.

19 Existing law requires certain persons in their professional or occupational  
20 capacity to report the suspected abuse, neglect, exploitation, isolation or  
21 abandonment of older or vulnerable persons or the suspected abuse or neglect of a  
22 child. (NRS 200.5093, 432B.220) Under existing law, a person who is required to  
23 make such a report but knowingly and willfully fails to do so is guilty of: (1) a  
24 misdemeanor for a first violation of failing to make such a report concerning a child  
25 or a gross misdemeanor for each subsequent violation; or (2) a misdemeanor for  
26 failing to make such a report concerning an older or vulnerable person. (NRS  
27 200.5093, 432B.240) **Sections 2 and 3** of this bill expand these reporting  
28 requirements to an enrolled art therapist.

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

1 **Section 1.** Chapter 422 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 *1. The Director shall, to the extent authorized by federal law,*  
4 *include in the State Plan for Medicaid a requirement that the State*  
5 *pay the nonfederal share of expenditures incurred for art therapy*  
6 *provided by an enrolled art therapist.*

7 *2. The Department shall apply to the Secretary of Health and*  
8 *Human Services for a waiver granted pursuant to 42 U.S.C. §*  
9 *1315 or apply for an amendment of the State Plan for Medicaid*  
10 *that authorizes the Department to receive federal funding to*  
11 *include in the State Plan for Medicaid coverage of art therapy*  
12 *provided by an enrolled art therapist. The Department shall fully*  
13 *cooperate in good faith with the Federal Government during the*  
14 *application process to satisfy the requirements of the Federal*  
15 *Government for obtaining a waiver or amendment pursuant to this*  
16 *section.*

17 *3. A person who wishes to receive reimbursement through the*  
18 *Medicaid program for art therapy provided to a recipient of*  
19 *Medicaid must submit to the Division:*

20 *(a) An application for enrollment in the form prescribed by the*  
21 *Division; and*

22 *(b) Proof that he or she possesses the required training and*  
23 *qualifications prescribed by the Division pursuant to subsection 4.*

24 *4. The Division shall prescribe the required training and*  
25 *qualifications for enrollment pursuant to subsection 3 to receive*  
26 *reimbursement through Medicaid for art therapy.*

27 *5. As used in this section:*



1 (a) *“Art therapy” means the clinical use of art interventions to*  
2 *accomplish individualized goals within a therapeutic relationship*  
3 *by a professional who has completed a program for art therapy.*

4 (b) *“Enrolled art therapist” means a person who is enrolled*  
5 *with the Division pursuant to subsection 3 to receive*  
6 *reimbursement through Medicaid for art therapy.*

7 **Sec. 2.** NRS 432B.220 is hereby amended to read as follows:

8 432B.220 1. Any person who is described in subsection 4  
9 and who, in his or her professional or occupational capacity, knows  
10 or has reasonable cause to believe that a child has been abused or  
11 neglected shall:

12 (a) Except as otherwise provided in subsection 2, report the  
13 abuse or neglect of the child to an agency which provides child  
14 welfare services or to a law enforcement agency; and

15 (b) Make such a report as soon as reasonably practicable but not  
16 later than 24 hours after the person knows or has reasonable cause to  
17 believe that the child has been abused or neglected.

18 2. If a person who is required to make a report pursuant to  
19 subsection 1 knows or has reasonable cause to believe that the abuse  
20 or neglect of the child involves an act or omission of:

21 (a) A person directly responsible or serving as a volunteer for or  
22 an employee of a public or private home, institution or facility  
23 where the child is receiving child care outside of the home for a  
24 portion of the day, the person shall make the report to a law  
25 enforcement agency.

26 (b) An agency which provides child welfare services or a law  
27 enforcement agency, the person shall make the report to an agency  
28 other than the one alleged to have committed the act or omission,  
29 and the investigation of the abuse or neglect of the child must be  
30 made by an agency other than the one alleged to have committed the  
31 act or omission.

32 3. Any person who is described in paragraph (a) of subsection  
33 4 who delivers or provides medical services to a newborn infant and  
34 who, in his or her professional or occupational capacity, knows or  
35 has reasonable cause to believe that the newborn infant has been  
36 affected by a fetal alcohol spectrum disorder or prenatal substance  
37 use disorder or has withdrawal symptoms resulting from prenatal  
38 substance exposure shall, as soon as reasonably practicable but not  
39 later than 24 hours after the person knows or has reasonable cause to  
40 believe that the newborn infant is so affected or has such symptoms,  
41 notify an agency which provides child welfare services of the  
42 condition of the infant and refer each person who is responsible for  
43 the welfare of the infant to an agency which provides child welfare  
44 services for appropriate counseling, training or other services. A  
45 notification and referral to an agency which provides child welfare



1 services pursuant to this subsection shall not be construed to require  
2 prosecution for any illegal action.

3 4. A report must be made pursuant to subsection 1 by the  
4 following persons:

5 (a) A person providing services licensed or certified in this State  
6 pursuant to, without limitation, chapter 450B, 630, 630A, 631, 632,  
7 633, 634, 634A, 635, 636, 637, 637B, 639, 640, 640A, 640B, 640C,  
8 640D, 640E, 641, 641A, 641B, 641C, 641D or 653 of NRS.

9 (b) Any personnel of a medical facility licensed pursuant to  
10 chapter 449 of NRS who are engaged in the admission, examination,  
11 care or treatment of persons or an administrator, manager or other  
12 person in charge of such a medical facility upon notification of  
13 suspected abuse or neglect of a child by a member of the staff of the  
14 medical facility.

15 (c) A coroner.

16 (d) A member of the clergy, practitioner of Christian Science or  
17 religious healer, unless the person has acquired the knowledge of the  
18 abuse or neglect from the offender during a confession.

19 (e) A person employed by a public school or private school and  
20 any person who serves as a volunteer at such a school.

21 (f) Any person who maintains or is employed by a facility or  
22 establishment that provides care for children, children's camp or  
23 other public or private facility, institution or agency furnishing care  
24 to a child.

25 (g) Any person licensed pursuant to chapter 424 of NRS to  
26 conduct a foster home.

27 (h) Any officer or employee of a law enforcement agency or an  
28 adult or juvenile probation officer.

29 (i) Except as otherwise provided in NRS 432B.225, an attorney.

30 (j) Any person who maintains, is employed by or serves as a  
31 volunteer for an agency or service which advises persons regarding  
32 abuse or neglect of a child and refers them to persons and agencies  
33 where their requests and needs can be met.

34 (k) Any person who is employed by or serves as a volunteer for  
35 a youth shelter. As used in this paragraph, "youth shelter" has the  
36 meaning ascribed to it in NRS 244.427.

37 (l) Any adult person who is employed by an entity that provides  
38 organized activities for children, including, without limitation, a  
39 person who is employed by a school district or public school.

40 (m) Any person who is enrolled with the Division of Health  
41 Care Financing and Policy of the Department of Health and Human  
42 Services to provide ~~doula~~ :

43 (1) *Doula* services to recipients of Medicaid pursuant to NRS  
44 422.27177 ~~§~~ ; or



1           (2) *Art therapy services to recipients of Medicaid pursuant*  
2 *to section 1 of this act.*

3           (n) A peer recovery support specialist, as defined in NRS  
4 433.627, or peer recovery support specialist supervisor, as defined  
5 in NRS 433.629.

6           5. A report may be made by any other person.

7           6. If a person who is required to make a report pursuant to  
8 subsection 1 knows or has reasonable cause to believe that a child  
9 has died as a result of abuse or neglect, the person shall, as soon as  
10 reasonably practicable, report this belief to an agency which  
11 provides child welfare services or a law enforcement agency. If such  
12 a report is made to a law enforcement agency, the law enforcement  
13 agency shall notify an agency which provides child welfare services  
14 and the appropriate medical examiner or coroner of the report. If  
15 such a report is made to an agency which provides child welfare  
16 services, the agency which provides child welfare services shall  
17 notify the appropriate medical examiner or coroner of the report.  
18 The medical examiner or coroner who is notified of a report  
19 pursuant to this subsection shall investigate the report and submit  
20 his or her written findings to the appropriate agency which provides  
21 child welfare services, the appropriate district attorney and a law  
22 enforcement agency. The written findings must include, if  
23 obtainable, the information required pursuant to the provisions of  
24 subsection 2 of NRS 432B.230.

25           7. The agency, board, bureau, commission, department,  
26 division or political subdivision of the State responsible for the  
27 licensure, certification or endorsement of a person who is described  
28 in subsection 4 and who is required in his or her professional or  
29 occupational capacity to be licensed, certified or endorsed in this  
30 State shall, at the time of initial licensure, certification or  
31 endorsement:

32           (a) Inform the person, in writing or by electronic  
33 communication, of his or her duty as a mandatory reporter pursuant  
34 to this section;

35           (b) Obtain a written acknowledgment or electronic record from  
36 the person that he or she has been informed of his or her duty  
37 pursuant to this section; and

38           (c) Maintain a copy of the written acknowledgment or electronic  
39 record for as long as the person is licensed, certified or endorsed in  
40 this State.

41           8. The employer of a person who is described in subsection 4  
42 and who is not required in his or her professional or occupational  
43 capacity to be licensed, certified or endorsed in this State must, upon  
44 initial employment of the person:



1 (a) Inform the person, in writing or by electronic  
2 communication, of his or her duty as a mandatory reporter pursuant  
3 to this section;

4 (b) Obtain a written acknowledgment or electronic record from  
5 the person that he or she has been informed of his or her duty  
6 pursuant to this section; and

7 (c) Maintain a copy of the written acknowledgment or electronic  
8 record for as long as the person is employed by the employer.

9 9. Before a person may serve as a volunteer at a public school  
10 or private school, the school must:

11 (a) Inform the person, in writing or by electronic  
12 communication, of his or her duty as a mandatory reporter pursuant  
13 to this section and NRS 392.303;

14 (b) Obtain a written acknowledgment or electronic record from  
15 the person that he or she has been informed of his or her duty  
16 pursuant to this section and NRS 392.303; and

17 (c) Maintain a copy of the written acknowledgment or electronic  
18 record for as long as the person serves as a volunteer at the school.

19 10. As used in this section:

20 (a) "Private school" has the meaning ascribed to it in  
21 NRS 394.103.

22 (b) "Public school" has the meaning ascribed to it in  
23 NRS 385.007.

24 **Sec. 3.** NRS 200.5093 is hereby amended to read as follows:

25 200.5093 1. Any person who is described in subsection 4 and  
26 who, in a professional or occupational capacity, knows or has  
27 reasonable cause to believe that an older person or vulnerable  
28 person has been abused, neglected, exploited, isolated or abandoned  
29 shall:

30 (a) Except as otherwise provided in subsection 2, report the  
31 abuse, neglect, exploitation, isolation or abandonment of the older  
32 person or vulnerable person to:

33 (1) The local office of the Aging and Disability Services  
34 Division of the Department of Health and Human Services;

35 (2) A police department or sheriff's office; or

36 (3) A toll-free telephone service designated by the Aging and  
37 Disability Services Division of the Department of Health and  
38 Human Services; and

39 (b) Make such a report as soon as reasonably practicable but not  
40 later than 24 hours after the person knows or has reasonable cause to  
41 believe that the older person or vulnerable person has been abused,  
42 neglected, exploited, isolated or abandoned.

43 2. If a person who is required to make a report pursuant to  
44 subsection 1 knows or has reasonable cause to believe that the  
45 abuse, neglect, exploitation, isolation or abandonment of the older



1 person or vulnerable person involves an act or omission of the  
2 Aging and Disability Services Division, another division of the  
3 Department of Health and Human Services or a law enforcement  
4 agency, the person shall make the report to an agency other than the  
5 one alleged to have committed the act or omission.

6 3. Each agency, after reducing a report to writing, shall forward  
7 a copy of the report to the Aging and Disability Services Division of  
8 the Department of Health and Human Services and the Unit for the  
9 Investigation and Prosecution of Crimes.

10 4. A report must be made pursuant to subsection 1 by the  
11 following persons:

12 (a) Every physician, dentist, dental hygienist, chiropractic  
13 physician, optometrist, podiatric physician, medical examiner,  
14 resident, intern, professional or practical nurse, physician assistant  
15 licensed pursuant to chapter 630 or 633 of NRS, perfusionist,  
16 psychiatrist, psychologist, marriage and family therapist, clinical  
17 professional counselor, clinical alcohol and drug counselor, alcohol  
18 and drug counselor, music therapist, athletic trainer, driver of an  
19 ambulance, paramedic, licensed dietitian, holder of a license or a  
20 limited license issued under the provisions of chapter 653 of NRS,  
21 behavior analyst, assistant behavior analyst, registered behavior  
22 technician, peer recovery support specialist, as defined in NRS  
23 433.627, peer recovery support specialist supervisor, as defined in  
24 NRS 433.629, or other person providing medical services licensed  
25 or certified to practice in this State, who examines, attends or treats  
26 an older person or vulnerable person who appears to have been  
27 abused, neglected, exploited, isolated or abandoned.

28 (b) Any personnel of a hospital or similar institution engaged in  
29 the admission, examination, care or treatment of persons or an  
30 administrator, manager or other person in charge of a hospital or  
31 similar institution upon notification of the suspected abuse, neglect,  
32 exploitation, isolation or abandonment of an older person or  
33 vulnerable person by a member of the staff of the hospital.

34 (c) A coroner.

35 (d) Every person who maintains or is employed by an agency to  
36 provide personal care services in the home.

37 (e) Every person who maintains or is employed by an agency to  
38 provide nursing in the home.

39 (f) Every person who operates, who is employed by or who  
40 contracts to provide services for an intermediary service  
41 organization as defined in NRS 449.4304.

42 (g) Any employee of the Department of Health and Human  
43 Services, except the State Long-Term Care Ombudsman appointed  
44 pursuant to NRS 427A.125 and any of his or her advocates or



1 volunteers where prohibited from making such a report pursuant to  
2 45 C.F.R. § 1321.11.

3 (h) Any employee of a law enforcement agency or a county's  
4 office for protective services or an adult or juvenile probation  
5 officer.

6 (i) Any person who maintains or is employed by a facility or  
7 establishment that provides care for older persons or vulnerable  
8 persons.

9 (j) Any person who maintains, is employed by or serves as a  
10 volunteer for an agency or service which advises persons regarding  
11 the abuse, neglect, exploitation, isolation or abandonment of an  
12 older person or vulnerable person and refers them to persons and  
13 agencies where their requests and needs can be met.

14 (k) Every social worker.

15 (l) Any person who owns or is employed by a funeral home or  
16 mortuary.

17 (m) Every person who operates or is employed by a community  
18 health worker pool, as defined in NRS 449.0028, or with whom a  
19 community health worker pool contracts to provide the services of a  
20 community health worker, as defined in NRS 449.0027.

21 (n) Every person who is enrolled with the Division of Health  
22 Care Financing and Policy of the Department of Health and Human  
23 Services to provide **[doula]** :

24 **(1) Doula** services to recipients of Medicaid pursuant to NRS  
25 422.27177 **[H]** ; or

26 **(2) Art therapy services to recipients of Medicaid pursuant**  
27 **to section 1 of this act.**

28 5. A report may be made by any other person.

29 6. If a person who is required to make a report pursuant to  
30 subsection 1 knows or has reasonable cause to believe that an older  
31 person or vulnerable person has died as a result of abuse, neglect,  
32 isolation or abandonment, the person shall, as soon as reasonably  
33 practicable, report this belief to the appropriate medical examiner or  
34 coroner, who shall investigate the cause of death of the older person  
35 or vulnerable person and submit to the appropriate local law  
36 enforcement agencies, the appropriate prosecuting attorney, the  
37 Aging and Disability Services Division of the Department of Health  
38 and Human Services and the Unit for the Investigation and  
39 Prosecution of Crimes his or her written findings. The written  
40 findings must include the information required pursuant to the  
41 provisions of NRS 200.5094, when possible.

42 7. A division, office or department which receives a report  
43 pursuant to this section shall cause the investigation of the report to  
44 commence within 3 working days. A copy of the final report of the  
45 investigation conducted by a division, office or department, other





1 than the Aging and Disability Services Division of the Department  
2 of Health and Human Services, must be forwarded within 30 days  
3 after the completion of the report to the:

4 (a) Aging and Disability Services Division;

5 (b) Repository for Information Concerning Crimes Against  
6 Older Persons or Vulnerable Persons created by NRS 179A.450;  
7 and

8 (c) Unit for the Investigation and Prosecution of Crimes.

9 8. If the investigation of a report results in the belief that an  
10 older person or vulnerable person is abused, neglected, exploited,  
11 isolated or abandoned, the Aging and Disability Services Division  
12 of the Department of Health and Human Services or the county's  
13 office for protective services may provide protective services to the  
14 older person or vulnerable person if the older person or vulnerable  
15 person is able and willing to accept them.

16 9. A person who knowingly and willfully violates any of the  
17 provisions of this section is guilty of a misdemeanor.

18 10. As used in this section, "Unit for the Investigation and  
19 Prosecution of Crimes" means the Unit for the Investigation and  
20 Prosecution of Crimes Against Older Persons or Vulnerable Persons  
21 in the Office of the Attorney General created pursuant to  
22 NRS 228.265.

23 **Sec. 4.** NRS 232.320 is hereby amended to read as follows:

24 232.320 1. The Director:

25 (a) Shall appoint, with the consent of the Governor,  
26 administrators of the divisions of the Department, who are  
27 respectively designated as follows:

28 (1) The Administrator of the Aging and Disability Services  
29 Division;

30 (2) The Administrator of the Division of Welfare and  
31 Supportive Services;

32 (3) The Administrator of the Division of Child and Family  
33 Services;

34 (4) The Administrator of the Division of Health Care  
35 Financing and Policy; and

36 (5) The Administrator of the Division of Public and  
37 Behavioral Health.

38 (b) Shall administer, through the divisions of the Department,  
39 the provisions of chapters 63, 424, 425, 427A, 432A to 442,  
40 inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS  
41 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, *and*  
42 *section 1 of this act*, 422.580, 432.010 to 432.133, inclusive,  
43 432B.6201 to 432B.626, inclusive, 444.002 to 444.430, inclusive,  
44 and 445A.010 to 445A.055, inclusive, and all other provisions of  
45 law relating to the functions of the divisions of the Department, but



1 is not responsible for the clinical activities of the Division of Public  
2 and Behavioral Health or the professional line activities of the other  
3 divisions.

4 (c) Shall administer any state program for persons with  
5 developmental disabilities established pursuant to the  
6 Developmental Disabilities Assistance and Bill of Rights Act of  
7 2000, 42 U.S.C. §§ 15001 et seq.

8 (d) Shall, after considering advice from agencies of local  
9 governments and nonprofit organizations which provide social  
10 services, adopt a master plan for the provision of human services in  
11 this State. The Director shall revise the plan biennially and deliver a  
12 copy of the plan to the Governor and the Legislature at the  
13 beginning of each regular session. The plan must:

14 (1) Identify and assess the plans and programs of the  
15 Department for the provision of human services, and any  
16 duplication of those services by federal, state and local agencies;

17 (2) Set forth priorities for the provision of those services;

18 (3) Provide for communication and the coordination of those  
19 services among nonprofit organizations, agencies of local  
20 government, the State and the Federal Government;

21 (4) Identify the sources of funding for services provided by  
22 the Department and the allocation of that funding;

23 (5) Set forth sufficient information to assist the Department  
24 in providing those services and in the planning and budgeting for the  
25 future provision of those services; and

26 (6) Contain any other information necessary for the  
27 Department to communicate effectively with the Federal  
28 Government concerning demographic trends, formulas for the  
29 distribution of federal money and any need for the modification of  
30 programs administered by the Department.

31 (e) May, by regulation, require nonprofit organizations and state  
32 and local governmental agencies to provide information regarding  
33 the programs of those organizations and agencies, excluding  
34 detailed information relating to their budgets and payrolls, which the  
35 Director deems necessary for the performance of the duties imposed  
36 upon him or her pursuant to this section.

37 (f) Has such other powers and duties as are provided by law.

38 2. Notwithstanding any other provision of law, the Director, or  
39 the Director's designee, is responsible for appointing and removing  
40 subordinate officers and employees of the Department.

41 **Sec. 5.** 1. This section becomes effective upon passage and  
42 approval.

43 2. Sections 1 to 4, inclusive, of this act become effective:



- 1 (a) Upon passage and approval for the purpose of adopting any  
2 regulations and performing any other preparatory administrative  
3 tasks that are necessary to carry out the provisions of this act; and  
4 (b) On January 1, 2024, for all other purposes.



