

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 creative arts 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 creative arts therapy services; requiring any person who wishes to provide creative arts therapy services to a recipient of Medicaid to enroll with the Division of Health Care Financing and Policy of the Department; requiring an enrolled creative arts therapist to report the abuse of certain persons; authorizing the expenditure of funds in the Nevada Cultural Account for certain purposes; 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 creative arts therapy



12 provided to Medicaid recipients. **Section 1** also requires the Department to apply
13 for a waiver of federal Medicaid requirements or request to amend the State Plan to
14 receive federal funding to provide coverage of creative arts therapy. Finally,
15 **section 1** requires a person who wishes to provide creative arts therapy services to a
16 recipient of Medicaid to enroll with the Division of Health Care Financing and
17 Policy of the Department. **Section 4** of this bill makes a conforming change by
18 including the duties listed in **section 1** among the duties the Director of the
19 Department is required to fulfill.

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

30 Existing law creates the Nevada Cultural Account in the State General Fund to
31 provide resources and support for organizations, projects and activities relating to
32 the arts and humanities in this State. (NRS 233C.095, 233C.096) **Section 4.5** of this
33 bill authorizes certain funds in the Account to be expended to support programs and
34 projects to improve health outcomes through the arts and humanities.

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 creative arts*
6 *therapy provided by an enrolled creative arts 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 creative arts*
12 *therapy provided by an enrolled creative arts therapist. The*
13 *Department shall fully cooperate in good faith with the Federal*
14 *Government during the application process to satisfy the*
15 *requirements of the Federal Government for obtaining a waiver or*
16 *amendment pursuant to this section.*

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

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



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

3 4. The Division shall prescribe the required training and
4 qualifications for enrollment pursuant to subsection 3 to receive
5 reimbursement through Medicaid for creative arts therapy.

6 5. As used in this section:

7 (a) "Creative arts therapy" means the clinical use of artistic
8 interventions to accomplish individualized goals within a
9 therapeutic relationship by a professional who has completed an
10 accredited program for art therapy, drama therapy, dance therapy
11 or music therapy.

12 (b) "Enrolled creative arts therapist" means a person who is
13 enrolled with the Division pursuant to subsection 3 to receive
14 reimbursement through Medicaid for creative arts therapy.

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

16 432B.220 1. Any person who is described in subsection 4
17 and who, in his or her professional or occupational capacity, knows
18 or has reasonable cause to believe that a child has been abused or
19 neglected shall:

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

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

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

29 (a) A person directly responsible or serving as a volunteer for or
30 an employee of a public or private home, institution or facility
31 where the child is receiving child care outside of the home for a
32 portion of the day, the person shall make the report to a law
33 enforcement agency.

34 (b) An agency which provides child welfare services or a law
35 enforcement agency, the person shall make the report to an agency
36 other than the one alleged to have committed the act or omission,
37 and the investigation of the abuse or neglect of the child must be
38 made by an agency other than the one alleged to have committed the
39 act or omission.

40 3. Any person who is described in paragraph (a) of subsection
41 4 who delivers or provides medical services to a newborn infant and
42 who, in his or her professional or occupational capacity, knows or
43 has reasonable cause to believe that the newborn infant has been
44 affected by a fetal alcohol spectrum disorder or prenatal substance
45 use disorder or has withdrawal symptoms resulting from prenatal



1 substance exposure shall, as soon as reasonably practicable but not
2 later than 24 hours after the person knows or has reasonable cause to
3 believe that the newborn infant is so affected or has such symptoms,
4 notify an agency which provides child welfare services of the
5 condition of the infant and refer each person who is responsible for
6 the welfare of the infant to an agency which provides child welfare
7 services for appropriate counseling, training or other services. A
8 notification and referral to an agency which provides child welfare
9 services pursuant to this subsection shall not be construed to require
10 prosecution for any illegal action.

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

13 (a) A person providing services licensed or certified in this State
14 pursuant to, without limitation, chapter 450B, 630, 630A, 631, 632,
15 633, 634, 634A, 635, 636, 637, 637B, 639, 640, 640A, 640B, 640C,
16 640D, 640E, 641, 641A, 641B, 641C, 641D or 653 of NRS.

17 (b) Any personnel of a medical facility licensed pursuant to
18 chapter 449 of NRS who are engaged in the admission, examination,
19 care or treatment of persons or an administrator, manager or other
20 person in charge of such a medical facility upon notification of
21 suspected abuse or neglect of a child by a member of the staff of the
22 medical facility.

23 (c) A coroner.

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

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

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

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

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

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

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

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



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

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

7 (1) *Doula* services to recipients of Medicaid pursuant to NRS
8 422.27177 ~~H~~ ; or

9 (2) *Creative arts therapy services to recipients of Medicaid*
10 *pursuant to section 1 of this act.*

11 (n) A peer recovery support specialist, as defined in NRS
12 433.627, or peer recovery support specialist supervisor, as defined
13 in NRS 433.629.

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

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

33 7. The agency, board, bureau, commission, department,
34 division or political subdivision of the State responsible for the
35 licensure, certification or endorsement of a person who is described
36 in subsection 4 and who is required in his or her professional or
37 occupational capacity to be licensed, certified or endorsed in this
38 State shall, at the time of initial licensure, certification or
39 endorsement:

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

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



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

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

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

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

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

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

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

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

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

26 10. As used in this section:

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

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

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

32 200.5093 1. Any person who is described in subsection 4 and
33 who, in a professional or occupational capacity, knows or has
34 reasonable cause to believe that an older person or vulnerable
35 person has been abused, neglected, exploited, isolated or abandoned
36 shall:

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

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

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

43 (3) A toll-free telephone service designated by the Aging and
44 Disability Services Division of the Department of Health and
45 Human Services; and



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

5 2. If a person who is required to make a report pursuant to
6 subsection 1 knows or has reasonable cause to believe that the
7 abuse, neglect, exploitation, isolation or abandonment of the older
8 person or vulnerable person involves an act or omission of the
9 Aging and Disability Services Division, another division of the
10 Department of Health and Human Services or a law enforcement
11 agency, the person shall make the report to an agency other than the
12 one alleged to have committed the act or omission.

13 3. Each agency, after reducing a report to writing, shall forward
14 a copy of the report to the Aging and Disability Services Division of
15 the Department of Health and Human Services and the Unit for the
16 Investigation and Prosecution of Crimes.

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

19 (a) Every physician, dentist, dental hygienist, chiropractic
20 physician, optometrist, podiatric physician, medical examiner,
21 resident, intern, professional or practical nurse, physician assistant
22 licensed pursuant to chapter 630 or 633 of NRS, perfusionist,
23 psychiatrist, psychologist, marriage and family therapist, clinical
24 professional counselor, clinical alcohol and drug counselor, alcohol
25 and drug counselor, music therapist, athletic trainer, driver of an
26 ambulance, paramedic, licensed dietitian, holder of a license or a
27 limited license issued under the provisions of chapter 653 of NRS,
28 behavior analyst, assistant behavior analyst, registered behavior
29 technician, peer recovery support specialist, as defined in NRS
30 433.627, peer recovery support specialist supervisor, as defined in
31 NRS 433.629, or other person providing medical services licensed
32 or certified to practice in this State, who examines, attends or treats
33 an older person or vulnerable person who appears to have been
34 abused, neglected, exploited, isolated or abandoned.

35 (b) Any personnel of a hospital or similar institution engaged in
36 the admission, examination, care or treatment of persons or an
37 administrator, manager or other person in charge of a hospital or
38 similar institution upon notification of the suspected abuse, neglect,
39 exploitation, isolation or abandonment of an older person or
40 vulnerable person by a member of the staff of the hospital.

41 (c) A coroner.

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

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



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

4 (g) Any employee of the Department of Health and Human
5 Services, except the State Long-Term Care Ombudsman appointed
6 pursuant to NRS 427A.125 and any of his or her advocates or
7 volunteers where prohibited from making such a report pursuant to
8 45 C.F.R. § 1321.11.

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

12 (i) Any person who maintains or is employed by a facility or
13 establishment that provides care for older persons or vulnerable
14 persons.

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

20 (k) Every social worker.

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

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

27 (n) Every person who is enrolled with the Division of Health
28 Care Financing and Policy of the Department of Health and Human
29 Services to provide ~~doula~~ :

30 *(1) Doula* services to recipients of Medicaid pursuant to NRS
31 422.27177 ~~H~~; *or*

32 *(2) Creative arts therapy services to recipients of Medicaid*
33 *pursuant to section 1 of this act.*

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

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



1 findings must include the information required pursuant to the
2 provisions of NRS 200.5094, when possible.

3 7. A division, office or department which receives a report
4 pursuant to this section shall cause the investigation of the report to
5 commence within 3 working days. A copy of the final report of the
6 investigation conducted by a division, office or department, other
7 than the Aging and Disability Services Division of the Department
8 of Health and Human Services, must be forwarded within 30 days
9 after the completion of the report to the:

10 (a) Aging and Disability Services Division;

11 (b) Repository for Information Concerning Crimes Against
12 Older Persons or Vulnerable Persons created by NRS 179A.450;
13 and

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

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

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

24 10. As used in this section, "Unit for the Investigation and
25 Prosecution of Crimes" means the Unit for the Investigation and
26 Prosecution of Crimes Against Older Persons or Vulnerable Persons
27 in the Office of the Attorney General created pursuant to
28 NRS 228.265.

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

30 232.320 1. The Director:

31 (a) Shall appoint, with the consent of the Governor,
32 administrators of the divisions of the Department, who are
33 respectively designated as follows:

34 (1) The Administrator of the Aging and Disability Services
35 Division;

36 (2) The Administrator of the Division of Welfare and
37 Supportive Services;

38 (3) The Administrator of the Division of Child and Family
39 Services;

40 (4) The Administrator of the Division of Health Care
41 Financing and Policy; and

42 (5) The Administrator of the Division of Public and
43 Behavioral Health.

44 (b) Shall administer, through the divisions of the Department,
45 the provisions of chapters 63, 424, 425, 427A, 432A to 442,



1 inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS
2 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, *and*
3 *section 1 of this act*, 422.580, 432.010 to 432.133, inclusive,
4 432B.6201 to 432B.626, inclusive, 444.002 to 444.430, inclusive,
5 and 445A.010 to 445A.055, inclusive, and all other provisions of
6 law relating to the functions of the divisions of the Department, but
7 is not responsible for the clinical activities of the Division of Public
8 and Behavioral Health or the professional line activities of the other
9 divisions.

10 (c) Shall administer any state program for persons with
11 developmental disabilities established pursuant to the
12 Developmental Disabilities Assistance and Bill of Rights Act of
13 2000, 42 U.S.C. §§ 15001 et seq.

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

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

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

24 (3) Provide for communication and the coordination of those
25 services among nonprofit organizations, agencies of local
26 government, the State and the Federal Government;

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

29 (5) Set forth sufficient information to assist the Department
30 in providing those services and in the planning and budgeting for the
31 future provision of those services; and

32 (6) Contain any other information necessary for the
33 Department to communicate effectively with the Federal
34 Government concerning demographic trends, formulas for the
35 distribution of federal money and any need for the modification of
36 programs administered by the Department.

37 (e) May, by regulation, require nonprofit organizations and state
38 and local governmental agencies to provide information regarding
39 the programs of those organizations and agencies, excluding
40 detailed information relating to their budgets and payrolls, which the
41 Director deems necessary for the performance of the duties imposed
42 upon him or her pursuant to this section.

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



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

4 **Sec. 4.5.** NRS 233C.096 is hereby amended to read as follows:

5 233C.096 The Division shall administer the Nevada Cultural
6 Account and may expend only the amount of any gifts, grants,
7 donations, interest and income credited to the Account to:

8 1. Provide resources for developing the artistic, administrative
9 and financial stability of cultural organizations that serve and enrich
10 communities throughout this state regarding the arts and humanities;

11 2. Support programs and projects that provide residents of and
12 visitors to this state with access to a broad range of activities
13 regarding the arts and humanities;

14 3. Encourage cultural organizations to reduce their deficits, to
15 establish cash reserves and endowments and to engage in capital
16 projects that will aid in their stabilization; ~~and~~

17 4. Support initiatives and organizations that encourage access
18 to, the awareness of and education in the arts ~~[-]~~; and

19 **5. *Support programs and projects to improve health outcomes***
20 ***through the arts and humanities.***

21 **Sec. 5.** 1. This section becomes effective upon passage and
22 approval.

23 2. Sections 1 to 4.5, inclusive, of this act become effective:

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

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



