

SENATE BILL NO. 247—SENATORS PICKARD
AND OHRENSCHALL

MARCH 1, 2019

JOINT SPONSORS: ASSEMBLYMEN LEAVITT,
HARDY; AND COHEN

Referred to Committee on Commerce and Labor

SUMMARY—Requires informed consent of a parent or guardian before certain services related to mental health are provided to a child. (BDR 39-626)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 mental health; requiring in most circumstances the informed consent of each parent or guardian who has legal custody of a child before certain services relating to mental health may be provided to the child; authorizing the provision of such services with the consent of one parent or guardian in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires a mental health facility to obtain the informed written
2 consent of the parent or guardian of a child who is under 18 years of age and not
3 legally emancipated before instituting a plan of care, treatment or training for or
4 carrying out any necessary surgical procedure on the child. (NRS 433.484)
5 **Sections 1-7, 9 and 11** of this bill require certain providers of health care or other
6 services relating to mental health to obtain the informed consent of each parent or
7 guardian who has legal custody of a child who is under 18 years of age and not
8 legally emancipated before providing such care or services to the child, except that
9 the informed consent of one parent or guardian who has legal custody of the child is
10 acceptable if the treatment or services: (1) are necessary to avoid a substantial and
11 imminent risk of harm to the health or life of the child; or (2) have been ordered by
12 a court of competent jurisdiction. **Sections 8, 10 and 12** of this bill authorize
13 professional discipline against a marriage and family therapist, clinical professional
14 counselor, clinical social worker, alcohol and drug abuse counselor, problem



15 gambling counselor or clinical alcohol and drug abuse counselor who violates the
16 requirements of this bill. Other providers of health care or other services to which
17 this bill applies would also be subject to professional discipline for violating those
18 requirements. (NRS 437.400, 630.3065, 632.347, 633.131, 640D.170, 641.230)

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

1 **Section 1.** Chapter 437 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *A behavior analyst, assistant behavior analyst, registered*
4 *behavior technician or state certified behavior interventionist may*
5 *provide services within the practice of applied behavior analysis to*
6 *a child who is under 18 years of age and not legally emancipated*
7 *only if:*

8 1. *Each parent or guardian who has legal custody of the child*
9 *provides informed consent. If such consent is provided before the*
10 *commencement of an ongoing program of applied behavior*
11 *analysis, additional consent is not required before each session or*
12 *other activity that is included as part of the program.*

13 2. *A physician, physician assistant, advanced practice*
14 *registered nurse, licensed psychologist or licensed behavior*
15 *analyst determines that the practice of applied behavior analysis is*
16 *necessary to avoid a substantial and imminent risk of harm to the*
17 *health or life of the child and one parent or guardian who has*
18 *legal custody of the child has provided informed consent. Applied*
19 *behavior analysis provided pursuant to this subsection may*
20 *continue until there is no longer a substantial and imminent risk*
21 *of harm.*

22 3. *The services have been ordered by a court of competent*
23 *jurisdiction and one parent or guardian who has legal custody of*
24 *the child has provided informed consent.*

25 **Sec. 2.** Chapter 630 of NRS is hereby amended by adding
26 thereto a new section to read as follows:

27 *A physician or physician assistant may provide treatment or*
28 *evaluation related to the mental health of a child who is under 18*
29 *years of age and not legally emancipated only if:*

30 1. *Each parent or guardian who has legal custody of the child*
31 *provides informed consent. If such consent is provided before the*
32 *commencement of an ongoing program of treatment, additional*
33 *consent is not required before each session or other activity that is*
34 *included as part of the program.*

35 2. *The physician or physician assistant determines that the*
36 *treatment or evaluation is necessary to avoid a substantial and*
37 *imminent risk of harm to the health or life of the child and one*



1 *parent or guardian who has legal custody of the child has*
2 *provided informed consent. Treatment or evaluation provided*
3 *pursuant to this subsection may continue until there is no longer a*
4 *substantial and imminent risk of harm.*

5 *3. The treatment or evaluation has been ordered by a court of*
6 *competent jurisdiction and one parent or guardian who has legal*
7 *custody of the child has provided informed consent.*

8 **Sec. 3.** Chapter 632 of NRS is hereby amended by adding
9 thereto a new section to read as follows:

10 *A nurse licensed pursuant to this chapter may provide*
11 *treatment or evaluation related to the mental health of a child who*
12 *is under 18 years of age and not legally emancipated only if:*

13 *1. Each parent or guardian who has legal custody of the child*
14 *provides informed consent. If such consent is provided before the*
15 *commencement of an ongoing program of treatment, additional*
16 *consent is not required before each session or other activity that is*
17 *included as part of the program.*

18 *2. A physician, physician assistant or advanced practice*
19 *registered nurse determines that the treatment or evaluation is*
20 *necessary to avoid a substantial and imminent risk of harm to the*
21 *health or life of the child and one parent or guardian who has*
22 *legal custody of the child has provided informed consent.*
23 *Treatment or evaluation provided pursuant to this subsection may*
24 *continue until there is no longer a substantial and imminent risk*
25 *of harm.*

26 *3. The treatment or evaluation has been ordered by a court of*
27 *competent jurisdiction and one parent or guardian who has legal*
28 *custody of the child has provided informed consent.*

29 **Sec. 4.** Chapter 633 of NRS is hereby amended by adding
30 thereto a new section to read as follows:

31 *An osteopathic physician or physician assistant may provide*
32 *treatment or evaluation related to the mental health of a child who*
33 *is under 18 years of age and not legally emancipated only if:*

34 *1. Each parent or guardian who has legal custody of the child*
35 *provides informed consent. If such consent is provided before the*
36 *commencement of an ongoing program of treatment, additional*
37 *consent is not required before each session or other activity that is*
38 *included as part of the program.*

39 *2. The osteopathic physician or physician assistant*
40 *determines that the treatment or evaluation is necessary to avoid a*
41 *substantial and imminent risk of harm to the health or life of the*
42 *child and one parent or guardian who has legal custody of the*
43 *child has provided informed consent. Treatment or evaluation*
44 *provided pursuant to this subsection may continue until there is no*
45 *longer a substantial and imminent risk of harm.*



1 **3. The treatment or evaluation has been ordered by a court of**
2 **competent jurisdiction and one parent or guardian who has legal**
3 **custody of the child has provided informed consent.**

4 **Sec. 5.** Chapter 640D of NRS is hereby amended by adding
5 thereto a new section to read as follows:

6 ***A music therapist may provide music therapy services to a child***
7 ***who is under 18 years of age and not legally emancipated only if:***

8 **1. Each parent or guardian who has legal custody of the child**
9 **provides informed consent. If such consent is provided before the**
10 **commencement of an ongoing program of music therapy services,**
11 **additional consent is not required before each session or other**
12 **activity that is included as part of the program.**

13 **2. A physician, physician assistant, advanced practice**
14 **registered nurse or licensed psychologist determines that the music**
15 **therapy services are necessary to avoid a substantial and imminent**
16 **risk of harm to the health or life of the child and one parent or**
17 **guardian who has legal custody of the child has provided informed**
18 **consent. Music therapy services provided pursuant to this**
19 **subsection may continue until there is no longer a substantial and**
20 **imminent risk of harm.**

21 **3. The music therapy services have been ordered by a court of**
22 **competent jurisdiction and one parent or guardian who has legal**
23 **custody of the child has provided informed consent.**

24 **Sec. 6.** Chapter 641 of NRS is hereby amended by adding
25 thereto a new section to read as follows:

26 ***A psychologist, psychological assistant, psychological intern or***
27 ***psychological trainee may engage in the practice of psychology***
28 ***with a child who is under 18 years of age and not legally***
29 ***emancipated only if:***

30 **1. Each parent or guardian who has legal custody of the child**
31 **provides informed consent. If such consent is provided before the**
32 **commencement of an ongoing program of treatment, additional**
33 **consent is not required before each session or other activity that is**
34 **included as part of the program.**

35 **2. A psychologist determines that the practice of psychology is**
36 **necessary to avoid a substantial and imminent risk of harm to the**
37 **health or life of the child and one parent or guardian who has**
38 **legal custody of the child has provided informed consent. The**
39 **practice of psychology provided pursuant to this subsection may**
40 **continue until there is no longer a substantial and imminent risk**
41 **of harm.**

42 **3. The practice of psychology has been ordered by a court of**
43 **competent jurisdiction and one parent or guardian who has legal**
44 **custody of the child has provided informed consent.**



1 **Sec. 7.** Chapter 641A of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *A clinical professional counselor or marriage and family*
4 *therapist may engage in the practice of clinical professional*
5 *counseling or the practice of marriage and family therapy, as*
6 *applicable, with a child who is under 18 years of age and not*
7 *legally emancipated only if:*

8 1. *Each parent or guardian who has legal custody of the child*
9 *provides informed consent. If such consent is provided before the*
10 *commencement of an ongoing program of clinical professional*
11 *counseling or marriage and family therapy, as applicable,*
12 *additional consent is not required before each session or other*
13 *activity that is included as part of the program.*

14 2. *The clinical professional counselor or marriage and family*
15 *therapist determines that the clinical professional counseling or*
16 *marriage and family therapy, as applicable, is necessary to avoid a*
17 *substantial and imminent risk of harm to the health or life of the*
18 *child and one parent or guardian who has legal custody of the*
19 *child has provided informed consent. Clinical professional*
20 *counseling or marriage and family therapy provided pursuant to*
21 *this subsection may continue until there is no longer a substantial*
22 *and imminent risk of harm.*

23 3. *The clinical professional counseling or marriage and*
24 *family therapy, as applicable, has been ordered by a court of*
25 *competent jurisdiction and one parent or guardian who has legal*
26 *custody of the child has provided informed consent.*

27 **Sec. 8.** NRS 641A.310 is hereby amended to read as follows:

28 641A.310 The Board may refuse to grant a license or may
29 suspend or revoke a license for any of the following reasons:

30 1. Conviction of a felony relating to the practice of marriage
31 and family therapy or clinical professional counseling or of any
32 offense involving moral turpitude, the record of conviction being
33 conclusive evidence thereof.

34 2. Habitual drunkenness or addiction to the use of a controlled
35 substance.

36 3. Impersonating a licensed marriage and family therapist,
37 marriage and family therapist intern, clinical professional counselor
38 or clinical professional counselor intern or allowing another person
39 to use his or her license.

40 4. Using fraud or deception in applying for a license or in
41 passing the examination provided for in this chapter.

42 5. Rendering or offering to render services outside the area of
43 his or her training, experience or competence.

44 6. Committing unethical practices contrary to the interest of the
45 public as determined by the Board.



1 7. Unprofessional conduct as determined by the Board.
2 8. Negligence, fraud or deception in connection with services
3 he or she is licensed to provide pursuant to this chapter.

4 9. Operation of a medical facility, as defined in NRS 449.0151,
5 at any time during which:

6 (a) The license of the facility is suspended or revoked; or

7 (b) An act or omission occurs which results in the suspension or
8 revocation of the license pursuant to NRS 449.160.

9 ➤ This subsection applies to an owner or other principal responsible
10 for the operation of the facility.

11 *10. Engaging in the practice of marriage and family therapy*
12 *or clinical professional counseling with a child under 18 years of*
13 *age in violation of section 7 of this act.*

14 **Sec. 9.** Chapter 641B of NRS is hereby amended by adding
15 thereto a new section to read as follows:

16 *A clinical social worker may provide services within the*
17 *practice of clinical social work with a child who is under 18 years*
18 *of age and not legally emancipated only if:*

19 *1. Each parent or guardian who has legal custody of the child*
20 *provides informed consent. If such informed consent is provided*
21 *before the commencement of an ongoing program of clinical*
22 *social work, additional consent is not required before each session*
23 *or other activity that is included as part of the program.*

24 *2. The clinical social worker determines that the clinical*
25 *social work is necessary to avoid a substantial and imminent risk*
26 *of harm to the health or life of the child and one parent or*
27 *guardian who has legal custody of the child has provided informed*
28 *consent. Clinical social work provided pursuant to this subsection*
29 *may continue until there is no longer a substantial and imminent*
30 *risk of harm.*

31 *3. The clinical social work has been ordered by a court of*
32 *competent jurisdiction and one parent or guardian who has legal*
33 *custody of the child has provided informed consent.*

34 **Sec. 10.** NRS 641B.400 is hereby amended to read as follows:

35 641B.400 The grounds for initiating disciplinary action
36 pursuant to this chapter are:

37 1. Unprofessional conduct;

38 2. Conviction of:

39 (a) A felony relating to the practice of social work;

40 (b) Any offense involving moral turpitude; or

41 (c) A violation of any federal or state law regulating the
42 possession, distribution or use of any controlled substance or
43 dangerous drug as defined in chapter 454 of NRS;

44 3. Use of fraud or deception in:

45 (a) Applying for a license;



1 (b) Undergoing the initial licensing examination; or
2 (c) Rendering services as a social worker;
3 4. Allowing unauthorized use of a license issued pursuant to
4 this chapter;

5 5. Professional incompetence;
6 6. Practicing social work without a license;
7 7. *Engaging in clinical social work with a child under 18*
8 *years of age in violation of section 9 of this act;*

9 8. The habitual use of alcohol or any controlled substance
10 which impairs the ability to practice social work; and

11 ~~8.~~ 9. Operation of a medical facility, as defined in NRS
12 449.0151, at any time during which:

13 (a) The license of the facility is suspended or revoked; or
14 (b) An act or omission occurs which results in the suspension or
15 revocation of the license pursuant to NRS 449.160.

16 ↪ This subsection applies to an owner or other principal responsible
17 for the operation of the facility.

18 **Sec. 11.** Chapter 641C of NRS is hereby amended by adding
19 thereto a new section to read as follows:

20 *A clinical alcohol and drug abuse counselor, alcohol and drug*
21 *abuse counselor or problem gambling counselor may engage in*
22 *the clinical practice of counseling alcohol and drug abusers, the*
23 *practice of counseling alcohol and drug abusers or the practice of*
24 *counseling problem gamblers, as applicable, with a child who is*
25 *under 18 years of age and not legally emancipated only if:*

26 1. *Each parent or guardian who has legal custody of the child*
27 *provides informed consent. If such consent is provided before the*
28 *commencement of an ongoing program of counseling, additional*
29 *consent is not required before each session or other activity that is*
30 *included as part of the program.*

31 2. *The clinical alcohol and drug abuse counselor, alcohol*
32 *and drug abuse counselor or problem gambling counselor*
33 *determines that the counseling is necessary to avoid a substantial*
34 *and imminent risk of harm to the health or life of the child and*
35 *one parent or guardian who has legal custody of the child has*
36 *provided informed consent. Counseling provided pursuant to this*
37 *subsection may continue until there is no longer a substantial and*
38 *imminent risk of harm.*

39 3. *The counseling has been ordered by a court of competent*
40 *jurisdiction and one parent or guardian who has legal custody of*
41 *the child has provided informed consent.*

42 **Sec. 12.** NRS 641C.700 is hereby amended to read as follows:
43 641C.700 The grounds for initiating disciplinary action
44 pursuant to the provisions of this chapter include:

45 1. Conviction of:



- 1 (a) A felony relating to the practice of counseling alcohol and
2 drug abusers, the clinical practice of counseling alcohol and drug
3 abusers or the practice of counseling problem gamblers;
4 (b) An offense involving moral turpitude; or
5 (c) A violation of a federal or state law regulating the
6 possession, distribution or use of a controlled substance or
7 dangerous drug as defined in chapter 453 of NRS;
8 2. Fraud or deception in:
9 (a) Applying for a license or certificate;
10 (b) Taking an examination for a license or certificate;
11 (c) Documenting the continuing education required to renew or
12 reinstate a license or certificate;
13 (d) Submitting a claim for payment to an insurer; or
14 (e) The practice of counseling alcohol and drug abusers or the
15 clinical practice of counseling alcohol and drug abusers;
16 3. Allowing the unauthorized use of a license or certificate
17 issued pursuant to this chapter;
18 4. Professional incompetence;
19 5. The habitual use of alcohol or any other drug that impairs
20 the ability of a licensed or certified counselor or certified intern to
21 engage in the practice of counseling alcohol and drug abusers or the
22 clinical practice of counseling alcohol and drug abusers;
23 6. Engaging in the practice of counseling alcohol and drug
24 abusers, the practice of counseling problem gamblers or the clinical
25 practice of counseling alcohol and drug abusers with an inactive,
26 expired, suspended or revoked license or certificate;
27 7. *Engaging in the practice of counseling alcohol and drug*
28 *abusers, the practice of counseling problem gamblers or the*
29 *clinical practice of counseling alcohol and drug abusers with a*
30 *child under 18 years of age in violation of section 11 of this act;*
31 8. Engaging in behavior that is contrary to the ethical standards
32 as set forth in the regulations of the Board; and
33 ~~8.~~ 9. The operation of a medical facility, as defined in NRS
34 449.0151, at any time during which:
35 (a) The license of the facility is suspended or revoked; or
36 (b) An act or omission occurs which results in the suspension or
37 revocation of the license pursuant to NRS 449.160.
38 ↗ This subsection applies to an owner or other principal responsible
39 for the operation of the facility.

