

SENATE BILL NO. 60—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 19, 2018

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to health care.
(BDR 40-414)

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 health care; requiring certain entities that provide behavioral health services to obtain a license; requiring certain persons employed by or affiliated with such entities to undergo a background check; prohibiting such an entity from being operated by or employing a person who has been convicted of certain crimes; making changes relating to the enforcement of provisions relating to Medicaid fraud; requiring each person who wishes to participate in the State Plan for Medicaid as a provider of services to undergo a background check; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires each medical facility and facility for the dependent,
2 including certain facilities that provide care to alcohol and drug abusers, persons
3 with mental illness and persons with an intellectual or developmental disability to
4 obtain a license from the Division of Public and Behavioral Health of the
5 Department of Health and Human Services. (NRS 449.030) Existing law also
6 requires each provider of community-based living arrangement services to be
7 certified by the Division of Public and Behavioral Health and each provider of jobs
8 and day training services or supported living arrangement services to be certified by
9 the Aging and Disability Services Division of the Department. (NRS 433.607,
10 435.225, 435.332) **Sections 1-3** of this bill require any other for-profit entity that



provides services for the care and treatment of persons with mental illness, an intellectual disability or a developmental disability or who abuse alcohol or drugs to be licensed by the Division of Public and Behavioral Health as a facility for the dependent. Existing law requires the State Board of Health to adopt regulations governing the licensing of and licensing standards for facilities for the dependent. (NRS 449.0302) Because these entities are designated as facilities for the dependent, such regulations will apply to them as well. Existing law makes it a misdemeanor to operate a facility for the dependent without a license. (NRS 449.210) Therefore, operation of one of these entities without a license will be punishable as a misdemeanor.

Section 5 of this bill requires employees and independent contractors of an entity and certain other persons affiliated with such an entity to receive a background check. **Section 7** of this bill prohibits such an entity from being operated by or employing a person who has been convicted of certain crimes. Willfully providing false information in connection with such a background check that would disqualify the person from employment would be a misdemeanor. (NRS 449.123) **Section 4** of this bill makes a conforming change.

Existing federal regulations require a State Medicaid agency to require providers to consent to criminal background checks, including fingerprinting, as a condition of enrollment as a provider of services under the State Plan for Medicaid. (42 C.F.R. § 455.434) **Section 14** of this bill includes in state law a requirement that a provider of services receive a background check as a condition of enrollment as a provider of services under the State Plan for Medicaid. **Section 13** of this bill makes a conforming change.

Existing law makes it a crime to engage in certain fraudulent activity relating to the State Plan for Medicaid. (NRS 422.540, 422.560) Existing law also establishes civil penalties for a provider who engages in such activity and, as a result, receives payment to which the provider is not entitled. (NRS 422.580) Existing law establishes a 4-year statute of limitation for filing a civil or criminal action against a person who has engaged in such activity. (NRS 422.590) **Sections 8-11** of this bill expressly provide that statutes of limitations generally applicable to civil actions, misdemeanors, felonies and crimes committed in a secret manner do not apply to civil or criminal actions for Medicaid fraud. **Sections 15 and 16** of this bill increase the criminal penalties for Medicaid fraud if the amount of the fraudulent claim, the value of goods or services obtained or sought through fraud or the value of things unlawfully solicited, accepted, offered, transferred, paid, charged or received exceeds \$650.

Existing law provides the Attorney General with primary jurisdiction to investigate and prosecute Medicaid fraud. (NRS 228.410) Existing law authorizes the Attorney General to: (1) issue a subpoena for documents, records or materials in carrying out his or her duties to investigate and prosecute Medicaid fraud; and (2) use any documents, records or materials produced pursuant to such a subpoena in the course of a civil action against an alleged perpetrator of Medicaid fraud. (NRS 228.411) **Section 12** of this bill additionally authorizes the Attorney General to use such documents, records or materials in a criminal action.



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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

“Agency to provide behavioral health care services” means a for-profit entity that provides services for the care and treatment of persons with mental illness, an intellectual disability or a developmental disability or who abuse alcohol or drugs. The term does not include:

- 1. A medical facility;*
- 2. A facility for the dependent listed in subsections 1 to 9, inclusive, of NRS 449.0045;*
- 3. A provider of community-based living arrangement services; or*
- 4. A provider of supported living arrangement services.*

Sec. 2. NRS 449.001 is hereby amended to read as follows:

449.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.0195, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.

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. An agency to provide behavioral health care services.

Sec. 4. 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, *an agency to provide behavioral health services*, a facility for intermediate care, a facility for skilled nursing, 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(b)(2)~~ 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. 5. 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, *an agency to provide behavioral health care services*, a facility for intermediate care, a facility for skilled nursing, 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



1 distinct part of a hospital which meets the requirements of a skilled
2 nursing facility or nursing facility pursuant to 42 C.F.R. §
3 ~~483.5(b)(2).~~ 483.5, a hospital that provides swing-bed services as
4 described in 42 C.F.R. § 482.58 or, if residential services are
5 provided to children, a medical facility or facility for the treatment
6 of abuse of alcohol or drugs.

7 **Sec. 6.** NRS 449.160 is hereby amended to read as follows:

8 449.160 1. The Division may deny an application for a
9 license or may suspend or revoke any license issued under the
10 provisions of NRS 449.029 to 449.2428, inclusive, upon any of the
11 following grounds:

12 (a) Violation by the applicant or the licensee of any of the
13 provisions of NRS 439B.410 or 449.029 to 449.245, inclusive, or of
14 any other law of this State or of the standards, rules and regulations
15 adopted thereunder.

16 (b) Aiding, abetting or permitting the commission of any illegal
17 act.

18 (c) Conduct inimical to the public health, morals, welfare and
19 safety of the people of the State of Nevada in the maintenance and
20 operation of the premises for which a license is issued.

21 (d) Conduct or practice detrimental to the health or safety of the
22 occupants or employees of the facility.

23 (e) Failure of the applicant to obtain written approval from the
24 Director of the Department of Health and Human Services as
25 required by NRS 439A.100 or as provided in any regulation adopted
26 pursuant to NRS 449.001 to 449.430, inclusive, *and section 1 of*
27 *this act*, and 449.435 to 449.531, inclusive, and chapter 449A of
28 NRS if such approval is required.

29 (f) Failure to comply with the provisions of NRS 449.2486.

30 2. In addition to the provisions of subsection 1, the Division
31 may revoke a license to operate a facility for the dependent if, with
32 respect to that facility, the licensee that operates the facility, or an
33 agent or employee of the licensee:

34 (a) Is convicted of violating any of the provisions of
35 NRS 202.470;

36 (b) Is ordered to but fails to abate a nuisance pursuant to NRS
37 244.360, 244.3603 or 268.4124; or

38 (c) Is ordered by the appropriate governmental agency to correct
39 a violation of a building, safety or health code or regulation but fails
40 to correct the violation.

41 3. The Division shall maintain a log of any complaints that it
42 receives relating to activities for which the Division may revoke the
43 license to operate a facility for the dependent pursuant to subsection

44 2. The Division shall provide to a facility for the care of adults
45 during the day:



(a) A summary of a complaint against the facility if the investigation of the complaint by the Division either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

➤ The facility shall make the information available to the public pursuant to NRS 449.2486.

4. On or before February 1 of each odd-numbered year, the Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Division pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Division pursuant to subsection 2.

Sec. 7. NRS 449.174 is hereby amended to read as follows:

449.174 1. In addition to the grounds listed in NRS 449.160, the Division may deny a license to operate a facility, hospital, agency, program or home to an applicant or may suspend or revoke the license of a licensee to operate such a facility, hospital, agency, program or home if:

(a) The applicant or licensee has been convicted of:

(1) Murder, voluntary manslaughter or mayhem;

(2) Assault or battery with intent to kill or to commit sexual assault or mayhem;

(3) Sexual assault, statutory sexual seduction, incest, lewdness or indecent exposure, or any other sexually related crime that is punished as a felony;

(4) Prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punished as a misdemeanor, within the immediately preceding 7 years;

(5) A crime involving domestic violence that is punished as a felony;

(6) A crime involving domestic violence that is punished as a misdemeanor, within the immediately preceding 7 years;

(7) Abuse or neglect of a child or contributory delinquency;

(8) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, within the immediately preceding 7 years;

(9) Abuse, neglect, exploitation, isolation or abandonment of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;



(10) A violation of any provision of law relating to the State Plan for Medicaid or a law of any other jurisdiction that prohibits the same or similar conduct, within the immediately preceding 7 years;

(11) A violation of any provision of NRS 422.450 to 422.590, inclusive;

(12) A criminal offense under the laws governing Medicaid or Medicare, within the immediately preceding 7 years;

(13) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years;

(14) Any other felony involving the use or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon; or

(15) An attempt or conspiracy to commit any of the offenses listed in this paragraph, within the immediately preceding 7 years;

(b) The licensee has, in violation of NRS 449.125, continued to employ a person who has been convicted of a crime listed in paragraph (a); or

(c) The applicant or licensee has had a substantiated report of child abuse or neglect made against him or her and if the facility, hospital, agency, program or home provides residential services to children, is a psychiatric hospital that provides inpatient services to children or is a psychiatric residential treatment facility.

2. In addition to the grounds listed in NRS 449.160, the Division may suspend or revoke the license of a licensee to operate an agency to provide personal care services in the home, an agency to provide nursing in the home, a community health worker pool, *an agency to provide behavioral health services* or a peer support recovery organization if the licensee has, in violation of NRS 449.125, continued to employ a person who has been convicted of a crime listed in paragraph (a) of subsection 1.

3. As used in this section:

(a) "Domestic violence" means an act described in NRS 33.018.

(b) "Facility, hospital, agency, program or home" has the meaning ascribed to it in NRS 449.119.

(c) "Medicaid" has the meaning ascribed to it in NRS 439B.120.

(d) "Medicare" has the meaning ascribed to it in NRS 439B.130.

Sec. 8. NRS 11.190 is hereby amended to read as follows:

11.190 Except as otherwise provided in NRS 40.4639, 125B.050, ~~and~~ 217.007 ~~and~~ *and 422.590*, actions other than those for the recovery of real property, unless further limited by specific statute, may only be commenced as follows:

1. Within 6 years:



(a) Except as otherwise provided in NRS 62B.420 and 176.275, an action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or the renewal thereof.

(b) An action upon a contract, obligation or liability founded upon an instrument in writing, except those mentioned in the preceding sections of this chapter.

2. Within 4 years:

(a) An action on an open account for goods, wares and merchandise sold and delivered.

(b) An action for any article charged on an account in a store.

(c) An action upon a contract, obligation or liability not founded upon an instrument in writing.

(d) An action against a person alleged to have committed a deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, but the cause of action shall be deemed to accrue when the aggrieved party discovers, or by the exercise of due diligence should have discovered, the facts constituting the deceptive trade practice.

3. Within 3 years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for waste or trespass of real property, but when the waste or trespass is committed by means of underground works upon any mining claim, the cause of action shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the waste or trespass.

(c) An action for taking, detaining or injuring personal property, including actions for specific recovery thereof, but in all cases where the subject of the action is a domestic animal usually included in the term "livestock," which has a recorded mark or brand upon it at the time of its loss, and which strays or is stolen from the true owner without the owner's fault, the statute does not begin to run against an action for the recovery of the animal until the owner has actual knowledge of such facts as would put a reasonable person upon inquiry as to the possession thereof by the defendant.

(d) Except as otherwise provided in NRS 112.230 and 166.170, an action for relief on the ground of fraud or mistake, but the cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the fraud or mistake.

(e) An action pursuant to NRS 40.750 for damages sustained by a financial institution or other lender because of its reliance on certain fraudulent conduct of a borrower, but the cause of action in such a case shall be deemed to accrue upon the discovery by the



1 financial institution or other lender of the facts constituting the
2 concealment or false statement.

3 4. Within 2 years:

4 (a) An action against a sheriff, coroner or constable upon
5 liability incurred by acting in his or her official capacity and in
6 virtue of his or her office, or by the omission of an official duty,
7 including the nonpayment of money collected upon an execution.

8 (b) An action upon a statute for a penalty or forfeiture, where the
9 action is given to a person or the State, or both, except when the
10 statute imposing it prescribes a different limitation.

11 (c) An action for libel, slander, assault, battery, false
12 imprisonment or seduction.

13 (d) An action against a sheriff or other officer for the escape of a
14 prisoner arrested or imprisoned on civil process.

15 (e) Except as otherwise provided in NRS 11.215, an action to
16 recover damages for injuries to a person or for the death of a person
17 caused by the wrongful act or neglect of another. The provisions of
18 this paragraph relating to an action to recover damages for injuries
19 to a person apply only to causes of action which accrue after
20 March 20, 1951.

21 (f) An action to recover damages under NRS 41.740.

22 5. Within 1 year:

23 (a) An action against an officer, or officer de facto to recover
24 goods, wares, merchandise or other property seized by the officer in
25 his or her official capacity, as tax collector, or to recover the price or
26 value of goods, wares, merchandise or other personal property so
27 seized, or for damages for the seizure, detention or sale of, or injury
28 to, goods, wares, merchandise or other personal property seized, or
29 for damages done to any person or property in making the seizure.

30 (b) An action against an officer, or officer de facto for money
31 paid to the officer under protest, or seized by the officer in his or her
32 official capacity, as a collector of taxes, and which, it is claimed,
33 ought to be refunded.

34 **Sec. 9.** NRS 171.085 is hereby amended to read as follows:

35 171.085 Except as otherwise provided in NRS 171.080,
36 171.083, 171.084, ~~and~~ 171.095 ~~and~~ **422.590**, an indictment for:

37 1. Theft, robbery, burglary, forgery, arson, sex trafficking, a
38 violation of NRS 90.570, a violation punishable pursuant to
39 paragraph (c) of subsection 3 of NRS 598.0999 or a violation of
40 NRS 205.377 must be found, or an information or complaint filed,
41 within 4 years after the commission of the offense.

42 2. Sexual assault must be found, or an information or
43 complaint filed, within 20 years after the commission of the offense.



3. Any felony other than the felonies listed in subsections 1 and 2 must be found, or an information or complaint filed, within 3 years after the commission of the offense.

Sec. 10. NRS 171.090 is hereby amended to read as follows:

171.090 Except as otherwise provided in NRS 171.095, 202.885, **422.590** and 624.800, an indictment for:

1. A gross misdemeanor must be found, or an information or complaint filed, within 2 years after the commission of the offense.

2. Any other misdemeanor must be found, or an information or complaint filed, within 1 year after the commission of the offense.

Sec. 11. NRS 171.095 is hereby amended to read as follows:

171.095 1. Except as otherwise provided in subsection 2 and NRS 171.083 and 171.084:

(a) If a felony, gross misdemeanor or misdemeanor is committed in a secret manner, an indictment for the offense must be found, or an information or complaint filed, within the periods of limitation prescribed in NRS 171.085, 171.090, **422.590** and 624.800 after the discovery of the offense, unless a longer period is allowed by paragraph (b) or (c) or the provisions of NRS 202.885.

(b) An indictment must be found, or an information or complaint filed, for any offense constituting sexual abuse of a child as defined in NRS 432B.100 or sex trafficking of a child as defined in NRS 201.300, before the victim is:

(1) Thirty-six years old if the victim discovers or reasonably should have discovered that he or she was a victim of the sexual abuse or sex trafficking by the date on which the victim reaches that age; or

(2) Forty-three years old if the victim does not discover and reasonably should not have discovered that he or she was a victim of the sexual abuse or sex trafficking by the date on which the victim reaches 36 years of age.

(c) If a felony is committed pursuant to NRS 205.461 to 205.4657, inclusive, against a victim who is less than 18 years of age at the time of the commission of the offense, an indictment for the offense must be found, or an information or complaint filed, within 4 years after the victim discovers or reasonably should have discovered the offense.

2. If any indictment found, or an information or complaint filed, within the time prescribed in subsection 1 is defective so that no judgment can be given thereon, another prosecution may be instituted for the same offense within 6 months after the first is abandoned.

Sec. 12. NRS 228.411 is hereby amended to read as follows:

228.411 1. In carrying out the duties and responsibilities under NRS 228.410, the Attorney General, acting through the chief



1 executive of the Medicaid Fraud Control Unit or his or her designee,
2 may issue a subpoena for documents, records or materials.

3 2. The Attorney General may use any documents, records
4 or materials produced pursuant to a subpoena issued under this
5 section in the course of ~~fa-civil~~ *an* action brought pursuant to
6 NRS 228.410.

7 3. Any person who willfully fails or refuses to comply with a
8 subpoena issued pursuant to this section is guilty of a misdemeanor.

9 4. A subpoena issued pursuant to this section must include a
10 copy of the provisions of subsections 1, 2 and 3.

11 **Sec. 13.** NRS 232.320 is hereby amended to read as follows:

12 232.320 1. The Director:

13 (a) Shall appoint, with the consent of the Governor,
14 administrators of the divisions of the Department, who are
15 respectively designated as follows:

16 (1) The Administrator of the Aging and Disability Services
17 Division;

18 (2) The Administrator of the Division of Welfare and
19 Supportive Services;

20 (3) The Administrator of the Division of Child and Family
21 Services;

22 (4) The Administrator of the Division of Health Care
23 Financing and Policy; and

24 (5) The Administrator of the Division of Public and
25 Behavioral Health.

26 (b) Shall administer, through the divisions of the Department,
27 the provisions of chapters 63, 424, 425, 427A, 432A to 442,
28 inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS
29 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, *and*
30 *section 14 of this act*, 422.580, 432.010 to 432.133, inclusive,
31 432B.621 to 432B.626, inclusive, 444.002 to 444.430, inclusive,
32 and 445A.010 to 445A.055, inclusive, and all other provisions of
33 law relating to the functions of the divisions of the Department, but
34 is not responsible for the clinical activities of the Division of Public
35 and Behavioral Health or the professional line activities of the other
36 divisions.

37 (c) Shall administer any state program for persons with
38 developmental disabilities established pursuant to the
39 Developmental Disabilities Assistance and Bill of Rights Act of
40 2000, 42 U.S.C. §§ 15001 et seq.

41 (d) Shall, after considering advice from agencies of local
42 governments and nonprofit organizations which provide social
43 services, adopt a master plan for the provision of human services in
44 this State. The Director shall revise the plan biennially and deliver a



copy of the plan to the Governor and the Legislature at the beginning of each regular session. The plan must:

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

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

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

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

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

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

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

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

2. Notwithstanding any other provision of law, the Director, or the Director's designee, is responsible for appointing and removing subordinate officers and employees of the Department, other than the State Public Defender of the Office of State Public Defender who is appointed pursuant to NRS 180.010.

Sec. 14. Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each person who wishes to participate in the State Plan for Medicaid as a provider of services must, as a condition to participation:

(a) Arrange to have a complete set of fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and

(b) Submit to the Division:

(1) A complete set of fingerprints and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement



1 *agencies as the Division deems necessary for a report on the*
2 *applicant's background; or*

3 *(2) Written verification, on a form prescribed by the*
4 *Division, stating that the fingerprints of the applicant were taken*
5 *and directly forwarded electronically or by other means to the*
6 *Central Repository for Nevada Records of Criminal History and*
7 *that the applicant provided written permission authorizing the law*
8 *enforcement agency or other authorized entity taking the*
9 *fingerprints to submit the fingerprints to the Central Repository*
10 *for Nevada Records of Criminal History for submission to the*
11 *Federal Bureau of Investigation for a report on the applicant's*
12 *background and to such other law enforcement agencies as the*
13 *Division deems necessary for a report on the applicant's*
14 *background.*

15 *2. The Division may:*

16 *(a) Submit any fingerprints received pursuant to subsection 1*
17 *to the Central Repository for Nevada Records of Criminal History*
18 *for submission to the Federal Bureau of Investigation and to such*
19 *other law enforcement agencies as the Division deems necessary;*
20 *and*

21 *(b) Request from each agency to which the Division submits*
22 *the fingerprints any information regarding the applicant's*
23 *background as the Division deems necessary.*

24 *3. The Division shall not authorize a person who has been*
25 *convicted of a crime listed in paragraph (a) of subsection 1 of NRS*
26 *449.174 to participate in the State Plan for Medicaid as a provider*
27 *of services.*

28 **Sec. 15.** NRS 422.540 is hereby amended to read as follows:

29 422.540 1. A person, with the intent to defraud, commits an
30 offense if with respect to the Plan the person:

31 (a) Makes a claim or causes it to be made, knowing the claim to
32 be false, in whole or in part, by commission or omission;

33 (b) Makes or causes to be made a statement or representation for
34 use in obtaining or seeking to obtain authorization to provide
35 specific goods or services, knowing the statement or representation
36 to be false, in whole or in part, by commission or omission;

37 (c) Makes or causes to be made a statement or representation for
38 use by another in obtaining goods or services pursuant to the Plan,
39 knowing the statement or representation to be false, in whole or in
40 part, by commission or omission; or

41 (d) Makes or causes to be made a statement or representation for
42 use in qualifying as a provider, knowing the statement or
43 representation to be false, in whole or in part, by commission or
44 omission.



2. A person who commits an offense described in subsection 1 shall be punished for a:

(a) *Category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000, if the amount of the claim or the value of the goods or services obtained or sought to be obtained was greater than or equal to \$3,500.*

(b) Category ~~D~~ C felony, as provided in NRS 193.130, if the amount of the claim or the value of the goods or services obtained or sought to be obtained was greater than or equal to \$650 ~~but less than \$3,500.~~

~~(c)~~ (c) Misdemeanor if the amount of the claim or the value of the goods or services obtained or sought to be obtained was less than \$650.

➔ Amounts involved in separate violations of this section committed pursuant to a scheme or continuing course of conduct may be aggregated in determining the punishment.

3. In addition to any other penalty for a violation of the commission of an offense described in subsection 1, the court shall order the person to pay restitution.

Sec. 16. NRS 422.560 is hereby amended to read as follows:

422.560 1. Except as otherwise provided in subsection 2, a person shall not:

(a) While acting on behalf of a provider, purchase or lease goods, services, materials or supplies for which payment may be made, in whole or in part, pursuant to the Plan, and solicit or accept anything of additional value in return for or in connection with the purchase or lease;

(b) Sell or lease to or for the use of a provider goods, services, materials or supplies for which payment may be made, in whole or in part, pursuant to the Plan, and offer, transfer or pay anything of additional value in connection with or in return for the sale or lease; or

(c) Refer a person to a provider for goods or services for which payment may be made, in whole or in part, pursuant to the Plan, and solicit or accept anything of value in connection with the referral.

2. Paragraphs (a) and (b) of subsection 1 do not apply if the additional value transferred is:

(a) A refund or discount made in the ordinary course of business;

(b) Reflected by the books and records of the person transferring or receiving it; and

(c) Reflected in the billings submitted to the Plan.



3. A person shall not, while acting on behalf of a provider providing goods or services to a recipient pursuant to the Plan, charge, solicit, accept or receive anything of additional value in addition to the amount legally payable pursuant to the Plan in connection with the provision of the goods or services.

4. A person who violates this section, if the value of the thing or any combination of things unlawfully solicited, accepted, offered, transferred, paid, charged or received:

(a) Is less than \$650, is guilty of a gross misdemeanor.

(b) Is *greater than or equal to* \$650 ~~for more,~~ *but less than \$3,500*, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(c) Is greater than or equal to \$3,500, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

Sec. 17. This act becomes effective on July 1, 2019.



