

ASSEMBLY BILL NO. 91—ASSEMBLYWOMAN BENITEZ-THOMPSON

PREFILED JANUARY 7, 2015

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing the admission of persons with certain mental conditions to and the release of such persons from certain facilities. (BDR 39-665)

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

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to mental health; expanding the list of persons authorized to file an application for the emergency admission of a person alleged to be a person with mental illness and a petition for the involuntary court-ordered admission of such a person to certain facilities or programs; expanding the list of persons authorized to conduct the examination required before a person is admitted to a mental health facility on an emergency basis; expanding the list of persons authorized to complete certain certificates concerning the mental condition of another; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law defines “person with mental illness” as a person whose capacity to
2 exercise self-control, judgment and discretion in the conduct of the person’s affairs
3 and social relations or to care for his or her personal needs is diminished, as a result
4 of mental illness, to the extent that the person presents a clear and present danger of
5 harm to himself or herself or others. (NRS 433A.115) Existing law authorizes
6 certain persons to file an application for the emergency admission of a person
7 alleged to be a person with mental illness to certain facilities. (NRS 433A.160)
8 **Section 1.5** of this bill expands the list of persons who are authorized to file such an
9 application to include a physician assistant.
10 Existing law requires a person to be examined by a physician, physician
11 assistant or advanced practice registered nurse before being admitted to a mental
12 health facility on an emergency basis. (NRS 433A.165) **Section 1.6** of this bill
13 authorizes a paramedic to conduct such an examination.



* A B 9 1 R 1 *

14 With certain exceptions, existing law requires an application for the emergency
15 admission of a person alleged to be a person with a mental illness to be
16 accompanied by a certificate of a psychiatrist or licensed psychologist or, if neither
17 is available, a physician, stating that the person has a mental illness and, because of
18 the mental illness, is likely to harm himself or herself or others if not admitted to
19 certain facilities or programs. (NRS 433A.170, 433A.200) Under existing law, a
20 licensed physician on the medical staff of certain facilities may release a person
21 alleged to be a person with mental illness who has been admitted on an emergency
22 basis if a licensed physician on the medical staff of the facility completes a
23 certificate stating that the person admitted is not a person with a mental illness.
24 (NRS 433A.195) **Sections 1, 1.7, 2, 3 and 4** of this bill authorize a physician
25 assistant under the supervision of a psychiatrist, a psychologist, a clinical social
26 worker with certain psychiatric training and experience, an advanced practice
27 registered nurse with certain psychiatric training and experience or an accredited
28 agent of the Department of Health and Human Services to complete such a
29 certificate while still requiring a licensed physician on the medical staff of the
30 facility to release the person. **Sections 4.2 and 4.7** of this bill require the State
31 Board of Nursing and the Board of Examiners for Social Workers to adopt
32 regulations prescribing the psychiatric training and experience necessary before an
33 advanced practice registered nurse or clinical social worker, as applicable, may
34 complete such a certificate.

35 Existing law prohibits a person who is related by blood or marriage within the
36 first degree of consanguinity or affinity from completing: (1) an application for the
37 emergency admission of such a person to a mental health facility; (2) a certificate
38 stating that a person has a mental illness, is likely to harm himself or herself or
39 others if not admitted to a mental health facility on an emergency basis; or (3) a
40 certificate stating that a person is not a person with a mental illness. (NRS
41 433A.197) **Section 3** also prohibits a person who is related by blood or marriage
42 within the second degree of consanguinity or affinity to a person alleged to be a
43 person with mental illness from completing such an application or certificate.

44 Existing law authorizes the spouse or a parent, adult child or legal guardian of a
45 person and certain other persons to file a petition for the involuntary court-ordered
46 admission of a person alleged to be a person with mental illness to a mental health
47 facility or to a program of community-based or outpatient services. (NRS
48 433A.200) **Section 4** further authorizes a physician assistant to file such a petition.

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

1 **Section 1.** NRS 433A.145 is hereby amended to read as
2 follows:

3 433A.145 1. If a person with mental illness is admitted to a
4 public or private mental health facility or hospital as a voluntary
5 consumer, the facility or hospital shall not change the status of the
6 person to an emergency admission unless the hospital or facility
7 receives, before the change in status is made, an application for an
8 emergency admission pursuant to NRS 433A.160 and the certificate
9 of a psychiatrist, psychologist, ~~to~~ physician, *physician assistant,*
10 *clinical social worker, advanced practice registered nurse or*
11 *accredited agent of the Department* pursuant to NRS 433A.170.



1 2. A person whose status is changed pursuant to subsection 1
2 must not be detained in excess of 48 hours after the change in status
3 is made unless, before the close of the business day on which the 48
4 hours expires, a written petition is filed with the clerk of the district
5 court pursuant to NRS 433A.200.

6 3. If the period specified in subsection 2 expires on a day on
7 which the office of the clerk of the district court is not open, the
8 written petition must be filed on or before the close of the business
9 day next following the expiration of that period.

10 **Sec. 1.5.** NRS 433A.160 is hereby amended to read as
11 follows:

12 433A.160 1. Except as otherwise provided in subsection 2,
13 an application for the emergency admission of a person alleged to be
14 a person with mental illness for evaluation, observation and
15 treatment may only be made by an accredited agent of the
16 Department, an officer authorized to make arrests in the State of
17 Nevada or a physician, *physician assistant*, psychologist, marriage
18 and family therapist, clinical professional counselor, social worker
19 or registered nurse. The agent, officer, physician, *physician*
20 *assistant*, psychologist, marriage and family therapist, clinical
21 professional counselor, social worker or registered nurse may:

22 (a) Without a warrant:

23 (1) Take a person alleged to be a person with mental illness
24 into custody to apply for the emergency admission of the person for
25 evaluation, observation and treatment; and

26 (2) Transport the person alleged to be a person with mental
27 illness to a public or private mental health facility or hospital for
28 that purpose, or arrange for the person to be transported by:

29 (I) A local law enforcement agency;

30 (II) A system for the nonemergency medical
31 transportation of persons whose operation is authorized by the
32 Nevada Transportation Authority;

33 (III) An entity that is exempt pursuant to NRS 706.745
34 from the provisions of NRS 706.386 or 706.421; or

35 (IV) If medically necessary, an ambulance service that
36 holds a permit issued pursuant to the provisions of chapter 450B of
37 NRS,

38 ↪ only if the agent, officer, physician, *physician assistant*,
39 psychologist, marriage and family therapist, clinical professional
40 counselor, social worker or registered nurse has, based upon his or
41 her personal observation of the person alleged to be a person with
42 mental illness, probable cause to believe that the person has a
43 mental illness and, because of that illness, is likely to harm himself
44 or herself or others if allowed his or her liberty.

45 (b) Apply to a district court for an order requiring:



1 (1) Any peace officer to take a person alleged to be a person
2 with mental illness into custody to allow the applicant for the order
3 to apply for the emergency admission of the person for evaluation,
4 observation and treatment; and

5 (2) Any agency, system or service described in subparagraph
6 (2) of paragraph (a) to transport the person alleged to be a person
7 with mental illness to a public or private mental health facility or
8 hospital for that purpose.

9 ➔ The district court may issue such an order only if it is satisfied
10 that there is probable cause to believe that the person has a mental
11 illness and, because of that illness, is likely to harm himself or
12 herself or others if allowed his or her liberty.

13 2. An application for the emergency admission of a person
14 alleged to be a person with mental illness for evaluation, observation
15 and treatment may be made by a spouse, parent, adult child or legal
16 guardian of the person. The spouse, parent, adult child or legal
17 guardian and any other person who has a legitimate interest in the
18 person alleged to be a person with mental illness may apply to a
19 district court for an order described in paragraph (b) of subsection 1.

20 3. The application for the emergency admission of a person
21 alleged to be a person with mental illness for evaluation, observation
22 and treatment must reveal the circumstances under which the person
23 was taken into custody and the reasons therefor.

24 4. Except as otherwise provided in this subsection, each person
25 admitted to a public or private mental health facility or hospital
26 under an emergency admission must be evaluated at the time of
27 admission by a psychiatrist or a psychologist. If a psychiatrist or a
28 psychologist is not available to conduct an evaluation at the time of
29 admission, a physician may conduct the evaluation. Each such
30 emergency admission must be approved by a psychiatrist.

31 5. As used in this section, "an accredited agent of the
32 Department" means any person appointed or designated by the
33 Director of the Department to take into custody and transport to a
34 mental health facility pursuant to subsections 1 and 2 those persons
35 in need of emergency admission.

36 **Sec. 1.6.** NRS 433A.165 is hereby amended to read as
37 follows:

38 433A.165 1. Before a person alleged to be a person with
39 mental illness may be admitted to a public or private mental health
40 facility pursuant to NRS 433A.160, the person must:

41 (a) First be examined by a licensed physician or physician
42 assistant licensed pursuant to chapter 630 or 633 of NRS , ~~for~~
43 an advanced practice registered nurse licensed pursuant to NRS
44 632.237 *or a paramedic certified pursuant to chapter 450B of NRS*
45 at any location where such a physician, physician assistant , ~~for~~



1 advanced practice registered nurse *or paramedic* is authorized to
2 conduct such an examination to determine whether the person has a
3 medical problem, other than a psychiatric problem, which requires
4 immediate treatment; and

5 (b) If such treatment is required, be admitted for the appropriate
6 medical care:

7 (1) To a hospital if the person is in need of emergency
8 services or care; or

9 (2) To another appropriate medical facility if the person is
10 not in need of emergency services or care.

11 2. If a person with a mental illness has a medical problem in
12 addition to a psychiatric problem which requires medical treatment
13 that requires more than 72 hours to complete, the licensed physician,
14 physician assistant, ~~or~~ advanced practice registered nurse *or*
15 *paramedic* who examined the person must:

16 (a) On the first business day after determining that such medical
17 treatment is necessary file with the clerk of the district court a
18 written petition to admit the person to a public or private mental
19 health facility pursuant to NRS 433A.160 after the medical
20 treatment has been completed. The petition must:

21 (1) Include, without limitation, the medical condition of the
22 person and the purpose for continuing the medical treatment of the
23 person; and

24 (2) Be accompanied by a copy of the application for the
25 emergency admission of the person required pursuant to NRS
26 433A.160 and the certificate required pursuant to NRS 433A.170.

27 (b) Seven days after filing a petition pursuant to paragraph (a)
28 and every 7 days thereafter, file with the clerk of the district court an
29 update on the medical condition and treatment of the person.

30 3. The examination and any transfer of the person from a
31 facility when the person has an emergency medical condition and
32 has not been stabilized must be conducted in compliance with:

33 (a) The requirements of 42 U.S.C. § 1395dd and any regulations
34 adopted pursuant thereto, and must involve a person authorized
35 pursuant to federal law to conduct such an examination or certify
36 such a transfer; and

37 (b) The provisions of NRS 439B.410.

38 4. The cost of the examination must be paid by the county in
39 which the person alleged to be a person with mental illness resides if
40 services are provided at a county hospital located in that county or a
41 hospital or other medical facility designated by that county, unless
42 the cost is voluntarily paid by the person alleged to be a person with
43 mental illness or, on the person's behalf, by his or her insurer or by
44 a state or federal program of medical assistance.



1 5. The county may recover all or any part of the expenses paid
2 by it, in a civil action against:

- 3 (a) The person whose expenses were paid;
4 (b) The estate of that person; or
5 (c) A responsible relative as prescribed in NRS 433A.610, to the
6 extent that financial ability is found to exist.

7 6. The cost of treatment, including hospitalization, for a person
8 who is indigent must be paid pursuant to NRS 428.010 by the
9 county in which the person alleged to be a person with mental
10 illness resides.

11 7. The provisions of this section do not require the Division to
12 provide examinations required pursuant to subsection 1 at a Division
13 facility if the Division does not have the:

- 14 (a) Appropriate staffing levels of physicians, physician
15 assistants, advanced practice registered nurses, *paramedics* or other
16 appropriate staff available at the facility as the Division determines
17 is necessary to provide such examinations; or
18 (b) Appropriate medical laboratories as the Division determines
19 is necessary to provide such examinations.

20 8. The Division shall adopt regulations to carry out the
21 provisions of this section, including, without limitation, regulations
22 that:

- 23 (a) Define “emergency services or care” as that term is used in
24 this section; and
25 (b) Prescribe the type of medical facility that a person may be
26 admitted to pursuant to subparagraph (2) of paragraph (b) of
27 subsection 1.

28 9. As used in this section, “medical facility” has the meaning
29 ascribed to it in NRS 449.0151.

30 **Sec. 1.7.** NRS 433A.170 is hereby amended to read as
31 follows:

32 433A.170 ~~Except as otherwise provided in this section, the~~
33 *The* administrative officer of a facility operated by the Division or
34 of any other public or private mental health facility or hospital shall
35 not accept an application for an emergency admission under NRS
36 433A.160 unless that application is accompanied by a certificate of
37 a psychiatrist or a licensed psychologist, *a physician, a physician*
38 *assistant under the supervision of a psychiatrist, a clinical social*
39 *worker who has the psychiatric training and experience prescribed*
40 *by the Board of Examiners for Social Workers pursuant to NRS*
41 *641B.160, an advanced practice registered nurse who has the*
42 *psychiatric training and experience prescribed by the State Board*
43 *of Nursing pursuant to NRS 632.120 or an accredited agent of the*
44 *Department* stating that he or she has examined the person alleged
45 to be a person with mental illness and that he or she has concluded



1 that the person has a mental illness and, because of that illness, is
2 likely to harm himself or herself or others if allowed his or her
3 liberty. ~~If a psychiatrist or licensed psychologist is not available to~~
4 ~~conduct an examination, a physician may conduct the examination.~~
5 The certificate required by this section may be obtained from a
6 ~~psychiatrist~~ licensed psychologist , ~~or~~ physician , *physician*
7 *assistant, clinical social worker, advanced practice registered*
8 *nurse or accredited agent of the Department* who is employed by
9 the public or private mental health facility or hospital to which the
10 application is made.

11 **Sec. 2.** NRS 433A.195 is hereby amended to read as follows:

12 433A.195 A licensed physician on the medical staff of a
13 facility operated by the Division or of any other public or private
14 mental health facility or hospital may release a person admitted
15 pursuant to NRS 433A.160 upon completion of a certificate which
16 meets the requirements of NRS 433A.197 signed by a licensed
17 physician on the medical staff of the facility or hospital , *a*
18 *physician assistant under the supervision of a psychiatrist, a*
19 *psychologist, a clinical social worker who has the psychiatric*
20 *training and experience prescribed by the Board of Examiners for*
21 *Social Workers pursuant to NRS 641B.160, an advanced practice*
22 *registered nurse who has the psychiatric training and experience*
23 *prescribed by the State Board of Nursing pursuant to NRS*
24 *632.120 or an accredited agent of the Department* stating that he or
25 she has personally observed and examined the person and that he or
26 she has concluded that the person is not a person with a mental
27 illness.

28 **Sec. 3.** NRS 433A.197 is hereby amended to read as follows:

29 433A.197 1. An application or certificate authorized under
30 subsection 1 of NRS 433A.160 or NRS 433A.170 or 433A.195 must
31 not be considered if made by a psychiatrist, psychologist , ~~or~~
32 physician , *physician assistant, clinical social worker, advanced*
33 *practice registered nurse or accredited agent of the Department*
34 who is related by blood or marriage within the ~~first~~ *second* degree
35 of consanguinity or affinity to the person alleged to be a person with
36 mental illness, or who is financially interested in the facility in
37 which the person alleged to be a person with mental illness is to be
38 detained.

39 2. An application or certificate of any examining person
40 authorized under NRS 433A.170 must not be considered unless it is
41 based on personal observation and examination of the person
42 alleged to be a person with mental illness made by such examining
43 person not more than 72 hours prior to the making of the application
44 or certificate. The certificate required pursuant to NRS 433A.170



1 must set forth in detail the facts and reasons on which the examining
2 person based his or her opinions and conclusions.

3 3. A certificate authorized pursuant to NRS 433A.195 must not
4 be considered unless it is based on personal observation and
5 examination of the person alleged to be a person with mental illness
6 made by the examining physician ~~††~~ , *physician assistant,*
7 *psychologist, clinical social worker, advanced practice registered*
8 *nurse or accredited agent of the Department.* The certificate
9 authorized pursuant to NRS 433A.195 must ~~set forth~~ *describe* in
10 detail the facts and reasons on which the examining physician ,
11 *physician assistant, psychologist, clinical social worker, advanced*
12 *practice registered nurse or accredited agent of the Department*
13 based his or her opinions and conclusions.

14 **Sec. 4.** NRS 433A.200 is hereby amended to read as follows:

15 433A.200 1. Except as otherwise provided in NRS
16 432B.6075, a proceeding for an involuntary court-ordered admission
17 of any person in the State of Nevada may be commenced by the
18 filing of a petition for the involuntary admission to a mental health
19 facility or to a program of community-based or outpatient services
20 with the clerk of the district court of the county where the person
21 who is to be treated resides. The petition may be filed by the spouse,
22 parent, adult children or legal guardian of the person to be treated or
23 by any physician, *physician assistant,* psychologist, social worker
24 or registered nurse, by an accredited agent of the Department or by
25 any officer authorized to make arrests in the State of Nevada. The
26 petition must be accompanied:

27 (a) By a certificate of a physician, psychiatrist or *a* licensed
28 psychologist , *a physician assistant under the supervision of a*
29 *psychiatrist, a clinical social worker who has the psychiatric*
30 *training and experience prescribed by the Board of Examiners for*
31 *Social Workers pursuant to NRS 641B.160, an advanced practice*
32 *registered nurse who has the psychiatric training and experience*
33 *prescribed by the State Board of Nursing pursuant to NRS*
34 *632.120 or an accredited agent of the Department* stating that he or
35 she has examined the person alleged to be a person with mental
36 illness and has concluded that the person has a mental illness and,
37 because of that illness, is likely to harm himself or herself or others
38 if allowed his or her liberty or if not required to participate in a
39 program of community-based or outpatient services; or

40 (b) By a sworn written statement by the petitioner that:

41 (1) The petitioner has, based upon the petitioner's personal
42 observation of the person alleged to be a person with mental illness,
43 probable cause to believe that the person has a mental illness and,
44 because of that illness, is likely to harm himself or herself or others



1 if allowed his or her liberty or if not required to participate in a
2 program of community-based or outpatient services; and

3 (2) The person alleged to be a person with mental illness has
4 refused to submit to examination or treatment by a physician,
5 psychiatrist or licensed psychologist.

6 2. Except as otherwise provided in NRS 432B.6075, if the
7 person to be treated is a minor and the petitioner is a person other
8 than a parent or guardian of the minor, the petition must, in addition
9 to the certificate or statement required by subsection 1, include a
10 statement signed by a parent or guardian of the minor that the parent
11 or guardian does not object to the filing of the petition.

12 **Sec. 4.2.** NRS 632.120 is hereby amended to read as follows:

13 632.120 1. The Board shall:

14 (a) Adopt regulations establishing reasonable standards:

15 (1) For the denial, renewal, suspension and revocation of,
16 and the placement of conditions, limitations and restrictions upon, a
17 license to practice professional or practical nursing or a certificate to
18 practice as a nursing assistant or medication aide - certified.

19 (2) Of professional conduct for the practice of nursing.

20 (3) For prescribing and dispensing controlled substances and
21 dangerous drugs in accordance with applicable statutes.

22 (4) *For the psychiatric training and experience necessary*
23 *for an advanced practice registered nurse to be authorized to make*
24 *the certifications described in NRS 433A.170, 433A.195 and*
25 *433A.200.*

26 (b) Prepare and administer examinations for the issuance of a
27 license or certificate under this chapter.

28 (c) Investigate and determine the eligibility of an applicant for a
29 license or certificate under this chapter.

30 (d) Carry out and enforce the provisions of this chapter and the
31 regulations adopted pursuant thereto.

32 2. The Board may adopt regulations establishing reasonable:

33 (a) Qualifications for the issuance of a license or certificate
34 under this chapter.

35 (b) Standards for the continuing professional competence of
36 licensees or holders of a certificate. The Board may evaluate
37 licensees or holders of a certificate periodically for compliance with
38 those standards.

39 3. The Board may adopt regulations establishing a schedule of
40 reasonable fees and charges, in addition to those set forth in NRS
41 632.345, for:

42 (a) Investigating licensees or holders of a certificate and
43 applicants for a license or certificate under this chapter;

44 (b) Evaluating the professional competence of licensees or
45 holders of a certificate;



- 1 (c) Conducting hearings pursuant to this chapter;
- 2 (d) Duplicating and verifying records of the Board; and
- 3 (e) Surveying, evaluating and approving schools of practical
- 4 nursing, and schools and courses of professional nursing,
- 5 and collect the fees established pursuant to this subsection.

6 4. For the purposes of this chapter, the Board shall, by
7 regulation, define the term "in the process of obtaining
8 accreditation."

9 5. The Board may adopt such other regulations, not
10 inconsistent with state or federal law, as may be necessary to carry
11 out the provisions of this chapter relating to nursing assistant
12 trainees, nursing assistants and medication aides - certified.

13 6. The Board may adopt such other regulations, not
14 inconsistent with state or federal law, as are necessary to enable it to
15 administer the provisions of this chapter.

16 **Sec. 4.7.** NRS 641B.160 is hereby amended to read as follows:
17 641B.160 The Board shall adopt ~~such~~ :

18 1. *Such* regulations as are necessary or desirable to enable it to
19 carry out the provisions of this chapter ~~+~~ ; and

20 2. *Regulations establishing reasonable standards for the*
21 *psychiatric training and experience necessary for a clinical social*
22 *worker to be authorized to make the certifications described in*
23 *NRS 433A.170, 433A.195 and 433A.200.*

24 **Sec. 5.** This act becomes effective upon passage and approval.



