

Assembly Bill No. 202–Assemblywoman
Summers-Armstrong

CHAPTER.....

AN ACT relating to medical facilities; authorizing a patient in a facility for skilled nursing or his or her representative to request the installation and use of an electronic communication device in the living quarters of the patient; prescribing requirements for the selection and operation of such a device; prohibiting a person from taking certain actions concerning such a device or the images and sounds broadcast by such a device; prohibiting a facility for skilled nursing or an employee of such a facility from taking certain additional actions; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law establishes certain duties of a medical facility, including a facility for skilled nursing, and specific rights of a patient in such a facility. (NRS 449A.100-449A.124) **Sections 3-7** of this bill define certain terms. **Section 9** of this bill authorizes a patient in a facility for skilled nursing or the representative of such a patient to request the installation and use of an electronic communication device in the living quarters of the patient under certain circumstances. Among other requirements, **section 9** requires the patient or representative of the patient to: (1) agree to waive the right to privacy of the patient; and (2) obtain the consent of the roommate of the patient or his or her representative, if applicable. **Section 8** of this bill prescribes the requirements to act as the representative of a patient or roommate for those purposes. **Section 9** requires a facility for skilled nursing to make reasonable efforts to accommodate a patient whose roommate fails to provide such consent. **Section 9** also authorizes a patient, representative or roommate to revoke a request for, or consent to, the installation and use of an electronic communication device.

Section 9 requires a facility for skilled nursing to approve a request for the installation and use of an electronic communication device if the applicable requirements are met. If such approval is granted, **section 10** of this bill provides that the patient or his or her representative is responsible for: (1) choosing the electronic communication device, subject to certain limitations; and (2) the cost of installing, maintaining and removing the electronic communication device and any repairs required due to the installation or removal of the electronic communication device.

Section 11 of this bill generally prohibits a person other than the patient or the representative for the patient who has requested the installation and use of an electronic communication device from intentionally: (1) obstructing, tampering with or destroying any such device or recording made by such a device; and (2) viewing or listening to any images or sounds which are displayed, broadcast or recorded by any such device except as otherwise authorized. **Section 11** authorizes an attorney for a patient or certain government officials to view or listen to any images or sounds which are displayed, broadcast or recorded by an electronic communication device or to temporarily disable or turn off such a device. **Sections 9 and 11** authorize a patient or the representative of a patient to authorize additional persons to view or listen to images or sounds which are displayed,



broadcast or recorded by an electronic communication device. **Section 11** prohibits a facility for skilled nursing from denying admission to or discharging a patient from the facility or otherwise discriminating or retaliating against a patient because of a decision to request the installation and use of an electronic communication device. **Section 12** of this bill subjects a person or entity who violates the provisions of **section 11** to certain civil and criminal penalties, and **section 1** of this bill subjects a facility for skilled nursing that violates the provisions of **sections 3-14** of this bill to disciplinary action. **Section 13** of this bill: (1) requires a facility for skilled nursing to post a notice in a conspicuous place at the entrance to the living quarters of a patient which contains an electronic communication device stating that such a device is in use in that living quarters; and (2) prohibits an employee at a facility for skilled nursing from refusing to enter the living quarters of a patient or fail to perform any of the duties of the employee on the grounds that an electronic communication device is in use in the living quarters. **Section 14** of this bill: (1) authorizes the State Board of Health to adopt regulations necessary to carry out the provisions of **sections 3-14**; and (2) makes the provisions of **sections 3-14** inapplicable to an electronic communication device that is installed by a law enforcement agency and used solely for a legitimate law enforcement purpose.

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

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

Section 1. NRS 449.160 is hereby amended to read as follows:

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

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

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

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

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

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



(f) Failure to comply with the provisions of NRS 441A.315 and any regulations adopted pursuant thereto or NRS 449.2486.

(g) Violation of the provisions of NRS 458.112.

(h) Failure to comply with the provisions of sections 3 to 14, inclusive, of this act and any regulation adopted pursuant thereto.

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

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

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

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

3. The Division shall maintain a log of any complaints that it receives relating to activities for which the Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The Division shall provide to a facility for the care of adults 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. 2. Chapter 449A of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 14, inclusive, of this act.

Sec. 3. *As used in sections 3 to 14, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*



Sec. 4. *“Facility for skilled nursing” has the meaning ascribed to it in NRS 449.0039.*

Sec. 5. *“Guardian” has the meaning ascribed to it in NRS 159.017.*

Sec. 6. *“Living quarters” means the room in which a patient resides.*

Sec. 7. *“Representative” means a person who is authorized to serve as the representative of a patient pursuant to section 8 of this act.*

Sec. 8. *A person may serve as the representative of a patient in a facility for skilled nursing, including, without limitation, a patient who is the roommate of a patient who wishes to submit or has submitted a request pursuant to section 9 of this act, for the purposes of sections 3 to 14, inclusive, of this act if the person:*

1. Is the guardian of the patient whom he or she is representing and:

(a) The power to make decisions on behalf of the patient pursuant to sections 3 to 14, inclusive, of this act is specifically authorized under the existing guardianship; or

(b) The guardian has separately petitioned for and been granted such power by the court that has jurisdiction over the guardianship; or

2. Has been given power of attorney to make decisions concerning health care for the patient pursuant to NRS 162A.700 to 162A.870, inclusive, and the power to make decisions on behalf of the patient pursuant to sections 3 to 14, inclusive, of this act is specifically delegated to the person in the power of attorney.

Sec. 9. *1. A patient in a facility for skilled nursing or the representative of the patient may request the installation and use of an electronic communication device in the living quarters of the patient by submitting to the facility for skilled nursing:*

(a) A completed form prescribed by the facility pursuant to subsection 3; or

(b) If the facility has not prescribed a form pursuant to subsection 3, a written request that meets the requirements of subsection 2.

2. A request submitted pursuant to subsection 1 must include or be accompanied by:

(a) Information regarding the type, function and expected use of the electronic communication device which will be installed and used;

(b) The name and contact information for any person other than the patient or his or her representative who is authorized to



view or listen to the images or sounds which are displayed, broadcast or recorded by the electronic communication device pursuant to subsection 3 of section 11 of this act;

(c) An agreement by the patient or the representative of the patient to, except as otherwise provided by section 11 of this act:

(1) Waive the patient's right to privacy in connection with use of the electronic communication device; and

(2) Release the facility for skilled nursing and any employee of the facility from any administrative, civil or criminal liability for a violation of the patient's right to privacy in connection with use of the electronic communication device;

(d) If the patient has a roommate:

(1) The written consent of the roommate or the representative of the roommate to the installation and use of an electronic communication device in the living quarters of the patient; and

(2) An agreement by the roommate or the representative of the roommate to, except as otherwise provided in section 11 of this act:

(I) Waive the roommate's right to privacy in connection with use of the electronic communication device; and

(II) Release the facility for skilled nursing and any employee of the facility from any administrative, civil or criminal liability for a violation of the roommate's right to privacy in connection with the use of the electronic communication device; and

(e) If the request is submitted by the representative of the patient, proof that the representative of the patient meets the requirements of section 8 of this act.

3. A facility for skilled nursing may prescribe a form for use by a patient or the representative of a patient to request to install and use an electronic communication device in the living quarters of the patient. To the extent practicable, such a form must be provided in a language chosen by the patient or the representative of the patient. Such a form must include, without limitation:

(a) An explanation of the provisions of sections 3 to 14, inclusive, of this act; and

(b) Places to record the information, agreements and consent described in paragraphs (a) to (d), inclusive, of subsection 2.

4. A facility for skilled nursing shall approve a request by a patient or the representative of a patient pursuant to this section if the request meets the requirements of this section.



5. *If the roommate or the representative of the roommate of a patient who wishes to submit a request pursuant to subsection 1, or whose representative wishes to submit such a request, refuses to provide consent and enter into the agreement required by paragraph (d) of subsection 2, the facility for skilled nursing shall make reasonable attempts to accommodate the patient. Such reasonable attempts may include, without limitation, moving either the patient or his or her roommate to different living quarters with the consent of the person being moved or his or her representative.*

6. *A patient or the representative of a patient who has submitted a request pursuant to subsection 1, a roommate who has provided consent pursuant to paragraph (d) of subsection 2 or the representative of such a roommate may withdraw the request or consent at any time, including, without limitation, after the request has been approved or after an electronic communication device has been installed, by submitting a written revocation to the facility for skilled nursing. Not later than 24 hours after the submission of such a written revocation, the facility for skilled nursing shall cause the removal of any electronic communication device that has been installed.*

Sec. 10. *1. If a facility for skilled nursing approves a request to install and use an electronic communication device in the living quarters of a patient pursuant to section 9 of this act, the patient or the representative of the patient is solely responsible for:*

(a) Choosing the electronic communication device, subject to the limitations prescribed by subsection 3;

(b) The cost of the electronic communication device;

(c) The cost of installing, maintaining and removing the electronic communication device, if applicable, other than the cost of electricity used to power the electronic communication device; and

(d) The cost of any repairs required due to the installation or removal of the device.

2. *A patient who is discharged from a facility for skilled nursing or the representative of such a patient remains solely responsible for the costs described in subsection 1, including, without limitation, such costs that are incurred after the discharge of the patient.*

3. *An electronic communication device chosen by a patient or the representative of a patient pursuant to subsection 1 must:*

(a) Be capable of being temporarily disabled or turned on and off; and



(b) If the device communicates using video or other visual transmission, to the greatest extent practicable, be installed:

(1) With a fixed viewpoint of the living quarters; or

(2) In a manner that avoids capturing images of activities such as bathing, dressing and toileting.

Sec. 11. *1. Except as otherwise provided in this section, a person other than the patient or the representative of the patient who has requested the installation and use of an electronic communication device pursuant to section 9 of this act shall not intentionally:*

(a) Obstruct, tamper with or destroy the electronic communication device or any recording made by the electronic communication device; or

(b) View or listen to any images or sounds which are displayed, broadcast or recorded by the electronic communication device.

2. The following persons may view or listen to the images or sounds which are displayed, broadcast or recorded by an electronic communication device installed and used pursuant to section 9 of this act or temporarily disable or turn off such a device:

(a) A representative of a law enforcement agency who is conducting an investigation;

(b) A representative of the Aging and Disability Services Division or the Division of Public and Behavioral Health of the Department of Health and Human Services who is conducting an investigation;

(c) The State Long-Term Care Ombudsman; and

(d) An attorney who is representing the patient or a roommate of the patient and acting within the scope of that representation.

3. A patient or the representative of the patient who has requested the installation and use of an electronic communication device pursuant to section 9 of this act may authorize a person other than a person described in subsection 2 to view or listen to the images or sounds which are displayed, broadcast or recorded by the electronic communication device. Any such authorization must be made in writing. The patient or representative, as applicable, may provide a copy of the authorization to the facility and the roommate of the patient or the representative of the roommate, if any.

4. A person who temporarily disables or turns off an electronic communication device pursuant to subsection 2 shall ensure that the functions of the electronic communication device



are appropriately enabled or turned back on before exiting the living quarters of the patient.

5. A facility for skilled nursing shall not deny admission to or discharge a patient from the facility or otherwise discriminate or retaliate against a patient because of a decision to request the installation and use of an electronic communication device in the living quarters of the patient pursuant to section 9 of this act.

Sec. 12. 1. *A natural person who violates subsection 1 of section 11 of this act:*

(a) For a first offense, is liable for a civil penalty not to exceed \$5,000.

(b) For a second and any subsequent offense:

(1) Is liable for a civil penalty not to exceed \$10,000 for each violation; and

(2) Is guilty of a misdemeanor.

2. In addition to any disciplinary action imposed pursuant to chapter 449 of NRS, a facility for skilled nursing or any person, partnership, association or corporation establishing, conducting, managing or operating a facility for skilled nursing who violates subsection 1 or 5 of section 11 of this act:

(a) For a first offense, is liable for a civil penalty not to exceed \$10,000.

(b) For a second and any subsequent offense:

(1) Is liable for a civil penalty not to exceed \$20,000 for each violation; and

(2) Is guilty of a misdemeanor.

3. The Attorney General or any district attorney may recover any civil penalty assessed pursuant to this section in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

Sec. 13. 1. *A facility for skilled nursing shall post a notice in a conspicuous place at the entrance to the living quarters of a patient which contains an electronic communication device stating that such a device is in use in that living quarters.*

2. An employee of a facility of skilled nursing shall not refuse to enter the living quarters of a patient which contains an electronic communication device installed pursuant to section 9 of this act or fail to perform any of the duties of the employee on the grounds that such a device is in use.

Sec. 14. 1. *The State Board of Health may adopt regulations necessary to carry out the provisions of sections 3 to 14, inclusive, of this act.*



2. The provisions of sections 3 to 14, inclusive, of this act do not apply if an electronic communication device is installed by a law enforcement agency and used solely for a legitimate law enforcement purpose.

Sec. 15. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 14, inclusive, of this act become effective:

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

(b) On October 1, 2023, for all other purposes.

