

ASSEMBLY BILL NO. 202—ASSEMBLYWOMAN
SUMMERS-ARMSTRONG

FEBRUARY 20, 2023

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing electronic communication devices in certain health care facilities. (BDR 40-46)

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: No.

~

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

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:

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



12 reasonable efforts to accommodate a patient whose roommate fails to provide such
13 consent. **Section 9** also authorizes a patient, representative or roommate to revoke a
14 request for, or consent to, the installation and use of an electronic communication
15 device.

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

22 **Section 11** of this bill generally prohibits a person other than the patient or the
23 representative for the patient who has requested the installation and use of an
24 electronic communication device from intentionally: (1) obstructing, tampering
25 with or destroying any such device or recording made by such a device; and (2)
26 viewing or listening to any images or sounds which are displayed, broadcast or
27 recorded by any such device except as otherwise authorized. **Section 11** authorizes
28 an attorney for a patient or certain government officials to view or listen to any
29 images or sounds which are displayed, broadcast or recorded by an electronic
30 communication device or to temporarily disable or turn off such a device. **Sections**
31 **9 and 11** authorize a patient or the representative of a patient to authorize
32 additional persons to view or listen to images or sounds which are displayed,
33 broadcast or recorded by an electronic communication device. **Section 11** prohibits
34 a facility for skilled nursing from denying admission to or discharging a patient
35 from the facility or otherwise discriminating or retaliating against a patient because
36 of a decision to request the installation and use of an electronic communication
37 device. **Section 12** of this bill subjects a person or entity who violates the
38 provisions of **section 11** to certain civil and criminal penalties, and **section 1** of this
39 bill subjects a facility for skilled nursing that violates the provisions of **sections 3-**
40 **14** of this bill to disciplinary action. **Section 13** of this bill: (1) authorizes a facility
41 for skilled nursing to post a notice in a conspicuous place at the entrance to the
42 living quarters of a patient which contains an electronic communication device
43 stating that such a device is in use in that living quarters; and (2) prohibits an
44 employee at a facility for skilled nursing from refusing to enter the living quarters
45 of a patient or fail to perform any of the duties of the employee on the grounds that
46 an electronic communication device is in use in the living quarters. **Section 14** of
47 this bill: (1) authorizes the State Board of Health to adopt regulations necessary to
48 carry out the provisions of **sections 3-14**; and (2) makes the provisions of **sections**
49 **3-14** inapplicable to an electronic communication device that is installed by a law
50 enforcement agency and used solely for a legitimate law enforcement purpose.

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

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

2 449.160 1. The Division may deny an application for a
3 license or may suspend or revoke any license issued under the
4 provisions of NRS 449.029 to 449.2428, inclusive, upon any of the
5 following grounds:

6 (a) Violation by the applicant or the licensee of any of the
7 provisions of NRS 439B.410 or 449.029 to 449.245, inclusive, or of



1 any other law of this State or of the standards, rules and regulations
2 adopted thereunder.

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

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

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

10 (e) Failure of the applicant to obtain written approval from the
11 Director of the Department of Health and Human Services as
12 required by NRS 439A.100 or as provided in any regulation adopted
13 pursuant to NRS 449.001 to 449.430, inclusive, and 449.435 to
14 449.531, inclusive, and chapter 449A of NRS if such approval is
15 required.

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

18 (g) Violation of the provisions of NRS 458.112.

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

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

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

27 (b) Is ordered to but fails to abate a nuisance pursuant to NRS
28 244.360, 244.3603 or 268.4124; or

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

32 3. The Division shall maintain a log of any complaints that it
33 receives relating to activities for which the Division may revoke the
34 license to operate a facility for the dependent pursuant to subsection
35 2. The Division shall provide to a facility for the care of adults
36 during the day:

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

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

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

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



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

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

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

8 **Sec. 2.** Chapter 449A of NRS is hereby amended by adding
9 thereto the provisions set forth as sections 3 to 14, inclusive, of this
10 act.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

11 (b) The name and contact information for any person other
12 than the patient or his or her representative who is authorized to
13 view or listen to the images or sounds which are displayed,
14 broadcast or recorded by the electronic communication device
15 pursuant to subsection 3 of section 11 of this act;

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

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

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

24 (d) If the patient has a roommate:

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

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

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

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

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

41 3. A facility for skilled nursing may prescribe a form for use
42 by a patient or the representative of a patient to request to install
43 and use an electronic communication device in the living quarters
44 of the patient. Such a form must include, without limitation:



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

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

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

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

18 6. A patient or the representative of a patient who has
19 submitted a request pursuant to subsection 1, a roommate who has
20 provided consent pursuant to paragraph (d) of subsection 2 or the
21 representative of such a roommate may withdraw the request or
22 consent at any time, including, without limitation, after the request
23 has been approved or after an electronic communication device
24 has been installed, by submitting a written revocation to the
25 facility for skilled nursing. Upon the submission of such a written
26 revocation, the facility for skilled nursing shall cause the removal
27 of any electronic communication device that has been installed.

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

32 (a) Choosing the electronic communication device, subject to
33 the limitations prescribed by subsection 2; and

34 (b) The cost of the electronic communication device and the
35 cost of installing, maintaining and removing the electronic
36 communication device, if applicable, other than the cost of
37 electricity used to power the electronic communication device.

38 2. An electronic communication device chosen by a patient or
39 the representative of a patient pursuant to subsection 1 must:

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

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

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



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

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

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

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

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

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

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

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

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

27 3. *A patient or the representative of the patient who has*
28 *requested the installation and use of an electronic communication*
29 *device pursuant to section 9 of this act may authorize a person*
30 *other than a person described in subsection 2 to view or listen to*
31 *the images or sounds which are displayed, broadcast or recorded*
32 *by the electronic communication device. Any such authorization*
33 *must be made in writing.*

34 4. *A person who temporarily disables or turns off an*
35 *electronic communication device pursuant to subsection 2 shall*
36 *ensure that the functions of the electronic communication device*
37 *are appropriately enabled or turned back on before exiting the*
38 *living quarters of the patient.*

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

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



1 (a) For a first offense, is liable for a civil penalty not to exceed
2 \$5,000.

3 (b) For a second and any subsequent offense:

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

6 (2) Is guilty of a misdemeanor.

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

12 (a) For a first offense, is liable for a civil penalty not to exceed
13 \$10,000.

14 (b) For a second and any subsequent offense:

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

17 (2) Is guilty of a misdemeanor.

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

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

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

31 **Sec. 14.** 1. The State Board of Health may adopt
32 regulations necessary to carry out the provisions of sections 3 to
33 14, inclusive, of this act.

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

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

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

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



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

⑩

