

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.

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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 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 and any
22 repairs required due to the installation or removal of the electronic communication
23 device.

24 **Section 11** of this bill generally prohibits a person other than the patient or the
25 representative for the patient who has requested the installation and use of an
26 electronic communication device from intentionally: (1) obstructing, tampering
27 with or destroying any such device or recording made by such a device; and (2)
28 viewing or listening to any images or sounds which are displayed, broadcast or
29 recorded by any such device except as otherwise authorized. **Section 11** authorizes
30 an attorney for a patient or certain government officials to view or listen to any
31 images or sounds which are displayed, broadcast or recorded by an electronic
32 communication device or to temporarily disable or turn off such a device. **Sections**
33 **9 and 11** authorize a patient or the representative of a patient, with the consent of
34 the roommate of the patient or his or her representative, if any, to authorize
35 additional persons to view or listen to images or sounds which are displayed,
36 broadcast or recorded by an electronic communication device. **Section 11** prohibits
37 a facility for skilled nursing from denying admission to or discharging a patient
38 from the facility or otherwise discriminating or retaliating against a patient because
39 of a decision to request the installation and use of an electronic communication
40 device. **Section 12** of this bill subjects a person or entity who violates the
41 provisions of **section 11** to certain civil and criminal penalties, and **section 1** of this
42 bill subjects a facility for skilled nursing that violates the provisions of **sections 3-**
43 **14** of this bill to disciplinary action. **Section 13** of this bill: (1) requires a facility for
44 skilled nursing to post a notice in a conspicuous place at the entrance to the living
45 quarters of a patient which contains an electronic communication device stating that
46 such a device is in use in that living quarters; and (2) prohibits an employee at a
47 facility for skilled nursing from refusing to enter the living quarters of a patient or
48 fail to perform any of the duties of the employee on the grounds that an electronic
49 communication device is in use in the living quarters. **Section 14** of this bill: (1)
50 authorizes the State Board of Health to adopt regulations necessary to carry out the
51 provisions of **sections 3-14**; and (2) makes the provisions of **sections 3-14**
52 inapplicable to an electronic communication device that is installed by a law
53 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:



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

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

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

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

12 (e) Failure of the applicant to obtain written approval from the
13 Director of the Department of Health and Human Services as
14 required by NRS 439A.100 or as provided in any regulation adopted
15 pursuant to NRS 449.001 to 449.430, inclusive, and 449.435 to
16 449.531, inclusive, and chapter 449A of NRS if such approval is
17 required.

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

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

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

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

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

29 (b) Is ordered to but fails to abate a nuisance pursuant to NRS
30 244.360, 244.3603 or 268.4124; or

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

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

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

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

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



1 ↪ The facility shall make the information available to the public
2 pursuant to NRS 449.2486.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 **Sec. 9.** 1. *A patient in a facility for skilled nursing or the*
45 *representative of the patient may request the installation and use*



1 of an electronic communication device in the living quarters of the
2 patient by submitting to the facility for skilled nursing:

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

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

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

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

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

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

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

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

26 (d) If the patient has a roommate:

27 (1) The written consent of the roommate or the
28 representative of the roommate to:

29 (I) The installation and use of an electronic
30 communication device in the living quarters of the patient; and

31 (II) The viewing of or listening to the images or sounds
32 which are displayed, broadcast or recorded by the electronic
33 communication device by the patient, the representative of the
34 patient and each person identified pursuant to paragraph (b); and

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

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

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



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

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

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

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

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

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

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

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

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

44 (b) The cost of the electronic communication device;



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

11 4. A person who temporarily disables or turns off an
12 electronic communication device pursuant to subsection 2 shall
13 ensure that the functions of the electronic communication device
14 are appropriately enabled or turned back on before exiting the
15 living quarters of the patient.

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

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

23 (a) For a first offense, is liable for a civil penalty not to exceed
24 \$5,000.

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

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

28 (2) Is guilty of a misdemeanor.

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

34 (a) For a first offense, is liable for a civil penalty not to exceed
35 \$10,000.

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

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

39 (2) Is guilty of a misdemeanor.

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

44 **Sec. 13. 1.** A facility for skilled nursing shall post a notice
45 in a conspicuous place at the entrance to the living quarters of a



1 *patient which contains an electronic communication device stating*
2 *that such a device is in use in that living quarters.*

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

8 **Sec. 14.** 1. *The State Board of Health may adopt*
9 *regulations necessary to carry out the provisions of sections 3 to*
10 *14, inclusive, of this act.*

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

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

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

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

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

