

SENATE BILL NO. 290—SENATOR CEGAVSKE

MARCH 16, 2009

Referred to Committee on Health and Education

SUMMARY—Authorizes patients of certain facilities to install electronic surveillance devices in the room of the patient. (BDR 40-852)

FISCAL NOTE: Effect on Local Government: No.
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 public health; authorizing patients of certain facilities to install electronic surveillance devices in the room of the patient under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 3** of this bill establishes the right of a patient or the guardian of a
2 patient who resides in a facility for hospice care, facility for intermediate care,
3 facility for skilled nursing or residential facility for groups to install and operate a
4 monitoring device in the room of the patient. **Section 3** also prescribes the required
5 waivers that must be obtained from the patient or the guardian who is installing the
6 device and from each patient who also resides in the room or his guardian. **Section**
7 **5** of this bill requires that the monitoring device be installed in a manner that is safe
8 for the residents, employees and visitors to the room and that all monitoring be
9 conducted in plain view. **Section 6** of this bill sets forth the conditions under which
10 a tape or recording from such a monitoring device may be admitted into evidence in
11 a civil or criminal court action or in an administrative proceeding.

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

1 **Section 1.** Chapter 449 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 6, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 6, inclusive, of this act,*
5 *“monitoring device” means a surveillance instrument that*



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1 *broadcasts or records activity. The term does not include a camera*
2 *used to take still photographs.*

3 **Sec. 3. 1.** *A patient of a facility for hospice care, facility for*
4 *intermediate care, facility for skilled nursing or residential facility*
5 *for groups, or his guardian may install and operate a monitoring*
6 *device in the room of the patient if:*

7 *(a) The patient or the guardian pays the expense of installing,*
8 *operating and maintaining the monitoring device; and*

9 *(b) The waivers required pursuant to subsection 2 have been*
10 *signed.*

11 *2. Before a monitoring device may be installed in the room of*
12 *a patient pursuant to this section, a written waiver must be*
13 *obtained from each patient who resides in the room in which the*
14 *monitoring device will be installed and operated, or his guardian,*
15 *including the patient or the guardian who is installing the device.*
16 *Each written waiver must include:*

17 *(a) Consent to the installation and operation of the monitoring*
18 *device;*

19 *(b) A description of the type of monitoring device that will be*
20 *installed;*

21 *(c) A description of whether the monitoring device will be in*
22 *continuous operation in the room or if not, the prescribed*
23 *circumstances under which the monitoring device will not be in*
24 *operation to protect the dignity of a patient;*

25 *(d) Any conditions on the use of the device that another*
26 *resident of the room requires as a condition to his consent;*

27 *(e) An acknowledgment that the patient or the guardian*
28 *releases the facility from liability for violations of the right to*
29 *privacy of the person who resides in the room in which the*
30 *monitoring device is operated; and*

31 *(f) An acknowledgment that the patient or the guardian*
32 *releases the person who operates the monitoring device from*
33 *violations of the right to privacy relating to reasonable disclosures*
34 *of the activities broadcast or recorded by the monitoring device.*

35 *3. If a video surveillance camera is used as a monitoring*
36 *device, a patient or a guardian who is not installing and operating*
37 *the camera but who provides his consent for operation of the*
38 *device in the room may, as a condition to his consent, require that*
39 *the camera be pointed away from the patient who is not installing*
40 *and operating the camera at all times.*

41 *4. If a monitoring device is in operation in a room and*
42 *another patient is moved into the room who has not yet consented*
43 *to the operation of the device, the monitoring must cease until the*
44 *new resident of the room or his guardian provides consent*
45 *pursuant to this section.*



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1 5. A patient or a guardian who signs a waiver pursuant to
2 subsection 2:

3 (a) Releases the facility from liability for any violation of the
4 right to privacy of the patient with regard to operation of a
5 monitoring device.

6 (b) Releases the person who operates a monitoring device from
7 any violation of the right to privacy relating to reasonable
8 disclosures of the activities broadcast or recorded by the
9 monitoring device.

10 (c) May revoke his signature and reinstate the right to privacy
11 of the patient at any time. Such revocation must be in writing and
12 signed by the patient or his guardian.

13 Sec. 4. 1. At the time of admission, a facility for hospice
14 care, facility for intermediate care, facility for skilled nursing or
15 residential facility for groups shall notify a patient or his guardian
16 of the right to install and operate a monitoring device pursuant to
17 sections 2 to 6, inclusive, of this act. A facility shall not:

18 (a) Deny the admission of;

19 (b) Discharge from the facility; or

20 (c) Otherwise discriminate or retaliate against,
21 ➔ a patient who wishes to have or has a monitoring device
22 installed and operated in his room.

23 2. A facility for hospice care, facility for intermediate care,
24 facility for skilled nursing or residential facility for groups shall:

25 (a) Cooperate with a patient or his guardian to accommodate
26 the installation of a monitoring device in the room of the patient;

27 (b) Post a notice at each public entrance to the facility stating
28 that the rooms of some of the residents may be under electronic
29 surveillance by or on behalf of the residents; and

30 (c) Post a notice in a conspicuous place at the entrance to each
31 room in which a monitoring device is in use stating that the room
32 is under electronic surveillance.

33 Sec. 5. 1. A monitoring device that is used pursuant to
34 sections 2 to 6, inclusive, of this act must be installed in a manner
35 that is safe for the residents, employees and visitors of the facility
36 who may be in the room in which the device is installed.

37 2. All monitoring authorized pursuant to sections 2 to 6,
38 inclusive, of this act must be conducted in plain view.

39 Sec. 6. 1. Subject to the applicable rules of evidence and
40 procedure and the provisions of this section, a tape or recording
41 created through the use of a monitoring device that is installed
42 and operated in accordance with sections 2 to 6, inclusive, of this
43 act may be admitted into evidence in a civil or criminal court
44 action or in an administrative proceeding if the contents of the



1 *tape or recording have not been edited, artificially enhanced or*
2 *otherwise tampered with.*

3 2. *If the tape or recording is a video recording, that recording*
4 *must not be admitted pursuant to subsection 1 unless the*
5 *recording clearly shows the date and time of the events that are the*
6 *subject of the action or proceeding.*

7 3. *If the contents of the tape or recording have been*
8 *transferred from the original format to another technological*
9 *format, the tape or recording in the transferred format must not be*
10 *admitted pursuant to subsection 1 unless the transfer was done by*
11 *qualified personnel and the contents of the tape or recording were*
12 *not altered or otherwise tampered with.*

13 **Sec. 7.** Each facility for hospice care, facility for intermediate
14 care, facility for skilled nursing or residential facility for groups
15 shall, on or before October 1, 2009, notify each patient who resides
16 in the facility on that date or his guardian of the right of the patient
17 or the guardian to install and operate a monitoring device pursuant
18 to the provisions of sections 2 to 6, inclusive, of this act.

