

ASSEMBLY BILL NO. 533—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMISSION’S
COMMITTEE TO STUDY GROUP HOMES)

MARCH 28, 2011

Referred to Committee on Health and Human Services

SUMMARY—Provides certain financial protections for residents of group homes and similar facilities. (BDR 40-673)

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

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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 group homes; providing certain financial protections for residents of group homes and similar facilities; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Section 1 of this bill prohibits the owner or administrator of a medical facility, facility for the dependent or home for individual residential care from receiving: (1) money or property devised by the will of a current or former resident of the facility or home; and (2) proceeds from a life insurance policy upon the life or body of a current or former resident of the facility or home. Under **section 1**, such an owner or administrator is deemed to have predeceased the resident and, as a result, the money, property and proceeds are then distributed to other devisees (in the case of a will) or other beneficiaries (in the case of a life insurance policy). In the event that there is no other devisee or beneficiary, the laws of this State pertaining to testate and intestate succession would control. **Section 1** does not apply in the instance in which the owner or administrator of the facility or home is the spouse, legal guardian or next of kin of the resident or former resident.

Under existing law, a principal may not name his or her provider of health care, an employee of the provider of health care or an operator or employee of a health care facility as his or her agent in a power of attorney for health care; however, an exception is set forth if the provider, operator or employee is the principal’s spouse, legal guardian or next of kin. (NRS 162A.840) **Section 3** of this bill establishes a broader prohibition in the context of group homes and similar facilities, providing that a person who resides or is about to reside in a hospital, assisted living facility or facility for skilled nursing may not name such a facility or an owner, operator or



employee of such a facility as his or her agent in any power of attorney for any purpose. The prohibition set forth in **section 3** does not apply if the owner, operator or employee is the resident's (principal's) spouse, legal guardian or next of kin or, when certain conditions are met, if the owner, operator or employee is assisting the principal to establish eligibility for Medicaid. **Section 3** further makes it a category C felony to use a power of attorney which is created for the purpose of assisting a principal to establish eligibility for Medicaid for any other purpose or in a manner inconsistent with the provisions of the power of attorney.

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 3 and notwithstanding any other provision of law, an owner or administrator of a medical facility, facility for the dependent or home for individual residential care is not entitled to receive, and must not receive:

(a) Any money, personal property or real property that is devised or bequeathed by will to the owner or administrator by a resident or former resident of the facility or home, as applicable.

(b) Any proceeds from a life insurance policy upon the life or body of a resident or former resident of the facility or home, as applicable.

2. Except as otherwise provided in subsection 3, any money, property, proceeds or interest therein that is described in subsection 1 passes in accordance with law as if the owner or administrator of the medical facility, facility for the dependent or home for individual residential care had predeceased the decedent resident or former resident.

3. The provisions of subsections 1 and 2 do not apply if the owner or administrator of the medical facility, facility for the dependent or home for individual residential care is the spouse, legal guardian or next of kin of the resident or former resident of the facility or home, as applicable.

Sec. 2. NRS 449.730 is hereby amended to read as follows:

449.730 1. Every medical facility, facility for the dependent and home for individual residential care shall inform each patient or the patient's legal representative, upon the admission of the patient to the facility or home, of the patient's rights as listed in NRS 449.700, 449.710, 449.715 , ~~and~~ 449.720 ~~and~~ *and section 1 of this act.*

2. In addition to the requirements of subsection 1, if a person with a disability is a patient at a facility, as that term is defined in



1 NRS 449.771, the facility shall inform the patient of his or her rights
2 pursuant to NRS 449.765 to 449.786, inclusive.

3 3. In addition to the requirements of subsections 1 and 2, every
4 hospital shall, upon the admission of a patient to the hospital,
5 provide to the patient or the patient's legal representative a written
6 disclosure approved by the Director *of the Department of Health*
7 *and Human Services*, which written disclosure must set forth:

8 (a) Notice of the existence of the Bureau for Hospital Patients
9 created pursuant to NRS 223.575;

10 (b) The address and telephone number of the Bureau; and

11 (c) An explanation of the services provided by the Bureau,
12 including, without limitation, the services for dispute resolution
13 described in subsection 3 of NRS 223.575.

14 4. In addition to the requirements of subsections 1, 2 and 3,
15 every hospital shall, upon the discharge of a patient from the
16 hospital, provide to the patient or the patient's legal representative a
17 written disclosure approved by the Director, which written
18 disclosure must set forth:

19 (a) If the hospital is a major hospital:

20 (1) Notice of the reduction or discount available pursuant to
21 NRS 439B.260, including, without limitation, notice of the criteria a
22 patient must satisfy to qualify for a reduction or discount under that
23 section; and

24 (2) Notice of any policies and procedures the hospital may
25 have adopted to reduce charges for services provided to persons or
26 to provide discounted services to persons, which policies and
27 procedures are in addition to any reduction or discount required to
28 be provided pursuant to NRS 439B.260. The notice required by this
29 subparagraph must describe the criteria a patient must satisfy to
30 qualify for the additional reduction or discount, including, without
31 limitation, any relevant limitations on income and any relevant
32 requirements as to the period within which the patient must arrange
33 to make payment.

34 (b) If the hospital is not a major hospital, notice of any policies
35 and procedures the hospital may have adopted to reduce charges for
36 services provided to persons or to provide discounted services to
37 persons. The notice required by this paragraph must describe the
38 criteria a patient must satisfy to qualify for the reduction or
39 discount, including, without limitation, any relevant limitations on
40 income and any relevant requirements as to the period within which
41 the patient must arrange to make payment.

42 ➡ As used in this subsection, "major hospital" has the meaning
43 ascribed to it in NRS 439B.115.

44 5. In addition to the requirements of subsections 1 to 4,
45 inclusive, every hospital shall post in a conspicuous place in each



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1 public waiting room in the hospital a legible sign or notice in
2 14-point type or larger, which sign or notice must:

3 (a) Provide a brief description of any policies and procedures the
4 hospital may have adopted to reduce charges for services provided
5 to persons or to provide discounted services to persons, including,
6 without limitation:

7 (1) Instructions for receiving additional information
8 regarding such policies and procedures; and

9 (2) Instructions for arranging to make payment;

10 (b) Be written in language that is easy to understand; and

11 (c) Be written in English and Spanish.

12 **Sec. 3.** NRS 162A.220 is hereby amended to read as follows:

13 162A.220 1. A power of attorney must be signed by the
14 principal or, in the principal's conscious presence, by another
15 individual directed by the principal to sign the principal's name on
16 the power of attorney. A signature on a power of attorney is
17 presumed to be genuine if the principal acknowledges the signature
18 before a notary public or other individual authorized by law to take
19 acknowledgments.

20 2. If the principal resides in a hospital, assisted living facility
21 or facility for skilled nursing at the time of execution of the power
22 of attorney, a certification of competency of the principal from a
23 physician, psychologist or psychiatrist must be attached to the
24 power of attorney.

25 3. *If the principal resides or is about to reside in a hospital,*
26 *assisted living facility or facility for skilled nursing at the time of*
27 *execution of the power of attorney, in addition to the prohibition*
28 *set forth in NRS 162A.840 and except as otherwise provided in*
29 *subsection 4, the principal may not name as agent in any power of*
30 *attorney for any purpose:*

31 (a) *The hospital, assisted living facility or facility for skilled*
32 *nursing;*

33 (b) *An owner or operator of the hospital, assisted living facility*
34 *or facility for skilled nursing; or*

35 (c) *An employee of the hospital, assisted living facility or*
36 *facility for skilled nursing.*

37 4. *The principal may name as agent any person identified in*
38 *subsection 3 if that person is:*

39 (a) *The spouse, legal guardian or next of kin of the principal;*
40 *or*

41 (b) *Named only for the purpose of assisting the principal to*
42 *establish eligibility for Medicaid and the power of attorney*
43 *complies with the provisions of subsection 5.*

44 5. *A person may be named as agent pursuant to paragraph*
45 *(b) of subsection 4 only if:*



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1 (a) A valid financial power of attorney for the principal does
2 not exist;

3 (b) The agent has made a good faith effort to contact each
4 family member of the principal identified in the records of the
5 hospital, assisted living facility or facility for skilled nursing, as
6 applicable, to request that the family member establish a financial
7 power of attorney for the principal and has documented his or her
8 effort;

9 (c) The power of attorney specifies that the agent is only
10 authorized to access financial documents of the principal which
11 are necessary to prove eligibility of the principal for Medicaid as
12 described in the application for Medicaid and specifies that any
13 request for such documentation must be accompanied by a copy of
14 the application for Medicaid or by other proof that the document
15 is necessary to prove eligibility for Medicaid;

16 (d) The power of attorney specifies that the agent does not
17 have authority to access money or any other asset of the principal
18 for any purpose; and

19 (e) The power of attorney specifies that the power of attorney
20 is only valid until eligibility of the principal for Medicaid is
21 determined or 6 months after the power of attorney is signed,
22 whichever is sooner.

23 6. A person who is named as agent pursuant to paragraph (b)
24 of subsection 4 shall not use the power of attorney for any purpose
25 other than to assist the principal to establish eligibility for
26 Medicaid and shall not use the power of attorney in a manner
27 inconsistent with the provisions of subsection 5. A person who
28 violates the provisions of this subsection is guilty of a category C
29 felony and shall be punished as provided in NRS 193.130.

30 7. As used in this section:

31 (a) "Assisted living facility" has the meaning ascribed to it in
32 NRS 422.2708.

33 (b) "Facility for skilled nursing" has the meaning ascribed to it
34 in NRS 449.0039.

35 (c) "Hospital" has the meaning ascribed to it in NRS 449.012.

36 **Sec. 4.** Except as otherwise provided in this act:

37 1. This act applies to a life insurance policy, power of attorney
38 or will created before, on or after July 1, 2011.

39 2. This act applies to a judicial proceeding concerning a life
40 insurance policy, power of attorney or will commenced on or after
41 July 1, 2011.

42 3. This act applies to a judicial proceeding concerning a life
43 insurance policy, power of attorney or will commenced before
44 July 1, 2011, unless the court finds that the application of a
45 provision of this act would substantially interfere with the effective



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- 1 conduct of the judicial proceeding or prejudice the rights of a party,
- 2 in which case that provision does not apply and the superseded law
- 3 applies.
- 4 4. An act done before July 1, 2011, is not affected by this act.
- 5 **Sec. 5.** This act becomes effective on July 1, 2011.

