

ASSEMBLY BILL NO. 36—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF CLARK COUNTY)

PREFILED DECEMBER 20, 2014

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing emergency services and care provided by hospitals in certain larger counties. (BDR 40-474)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

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

AN ACT relating to health care; revising provisions governing the provision of emergency services and care in hospitals in certain larger counties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires hospitals in this State to provide emergency services and care, and it is unlawful for a hospital or a physician working in a hospital emergency room to refuse to accept or treat a patient in need of emergency services and care except in certain circumstances. Existing law also prohibits a hospital or a physician working in a hospital emergency room from transferring a patient to another hospital or health facility without the consent of the receiving physician, hospital or health facility except in certain circumstances, including when the transferring hospital cannot provide the services needed by the patient, and entitles the receiving hospital to recover an amount equal to three times the charges for the treatment provided to the patient as a result of such an unauthorized transfer. (NRS 439B.410)

This bill requires a hospital located in a county whose population is 700,000 or more (currently Clark County) to provide certain types of services to patients requiring emergency care if the hospital has on its medical staff at least two physicians who can perform that type of service. If the hospital in such a county does not have at least two physicians who can perform each type of service, the hospital is required to enter into an agreement with another hospital to which a patient may be transferred to receive that type of service. This bill makes the current provisions that allow a hospital to transfer a patient when the hospital cannot provide the services needed by the patient applicable only to those hospitals



located in a county whose population is less than 700,000 (currently counties other than Clark County). This bill then exempts a hospital located in a county whose population is 700,000 or more (currently Clark County) if it has entered into an agreement with another hospital for the transfer of patients for a transfer to that hospital. This bill further requires such a hospital to notify the Division of Public and Behavioral Health of the Department of Health and Human Services, the district board of health, emergency medical services personnel and the public about the types of services and care the hospital does not provide and for which it has entered into an agreement with another hospital to which a patient requiring that type of service may be transferred.

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

Section 1. NRS 439B.410 is hereby amended to read as follows:

439B.410 1. Except as otherwise provided in subsection ~~4~~, **6**, each hospital in this State has an obligation to provide emergency services and care, including care provided by physicians and nurses, and to admit a patient where appropriate, regardless of the financial status of the patient.

2. *Each hospital located in a county whose population is 700,000 or more shall provide the following services to patients requiring emergency services and care unless the hospital has entered into an agreement with another hospital pursuant to subsection 3:*

- (a) Cardiology services;*
- (b) Gastroenterological services;*
- (c) General surgical services;*
- (d) Neurosurgical services;*
- (e) Ophthalmological services;*
- (f) Oral and maxillofacial surgical services;*
- (g) Orthopedic services;*
- (h) Otolaryngology services; and*
- (i) Urological services.*

3. *A hospital in a county whose population is 700,000 or more that does not have two or more physicians on its medical staff who can perform a service listed in subsection 2 shall enter into a written agreement with another hospital to which a patient requiring that type of emergency service and care may be transferred for treatment. The hospital shall also:*

(a) Provide written notice of any service for which it has entered into such an agreement with another hospital to the Division of Public and Behavioral Health of the Department, the district board of health and each provider of emergency medical services within the county; and



(b) Inform the public of any service for which a patient may be transferred to another hospital for treatment pursuant to an agreement entered into pursuant to this subsection by posting notice in appropriate waiting areas of the hospital and, if maintained by the hospital, on the Internet website of the hospital.

4. Except as otherwise provided in subsection ~~4.4~~ 6, it is unlawful for a hospital or a physician working in a hospital emergency room to:

(a) Refuse to accept or treat a patient in need of emergency services and care; or

(b) Except when medically necessary in the judgment of the attending physician:

(1) Transfer a patient to another hospital or health facility unless, as documented in the patient's records:

(I) A determination has been made that the patient is medically fit for transfer;

(II) Consent to the transfer has been given by the receiving physician, hospital or health facility;

(III) The patient has been provided with an explanation of the need for the transfer; and

(IV) Consent to the transfer has been given by the patient or the patient's legal representative; or

(2) Provide a patient with orders for testing at another hospital or health facility when the hospital from which the orders are issued is capable of providing that testing.

~~4.3~~ 5. A physician, hospital or other health facility which treats a patient as a result of a violation of subsection ~~4.2~~ 4 by a hospital or a physician working in the hospital is entitled to recover from that hospital an amount equal to three times the charges for the treatment provided that was billed by the physician, hospital or other health facility which provided the treatment, plus reasonable attorney's fees and costs.

~~4.4~~ 6. This section does not prohibit the transfer of a patient from one hospital to another:

(a) When the patient is covered by an insurance policy or other contractual arrangement which provides for payment at the receiving hospital;

(b) After the county responsible for payment for the care of an indigent patient has exhausted the money which may be appropriated for that purpose pursuant to NRS 428.050, 428.285 and 450.425; or

(c) ~~When~~ *In a county whose population:*

(1) Is less than 700,000, when the hospital cannot provide the services needed by the patient ~~4.4~~ ; or



(2) *Is 700,000 or more, when the hospital has entered into an agreement with another hospital to which a patient may be transferred for treatment pursuant to subsection 3.*

➤ No transfer may be made pursuant to this subsection until the patient's condition has been stabilized to a degree that allows the transfer without an additional risk to the patient.

~~15.1~~ 7. As used in this section:

(a) "Emergency services and care" means medical screening, examination and evaluation by a physician or, to the extent permitted by a specific statute, by a person under the supervision of a physician, to determine if an emergency medical condition or active labor exists and, if it does, the care, treatment and surgery by a physician necessary to relieve or eliminate the emergency medical condition or active labor, within the capability of the hospital. As used in this paragraph:

(1) "Active labor" means, in relation to childbirth, labor that occurs when:

(I) There is inadequate time before delivery to transfer the patient safely to another hospital; or

(II) A transfer may pose a threat to the health and safety of the patient or the unborn child.

(2) "Emergency medical condition" means the presence of acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:

(I) Placing the health of the patient in serious jeopardy;

(II) Serious impairment of bodily functions; or

(III) Serious dysfunction of any bodily organ or part.

(b) "Medically fit" means that the condition of the patient has been sufficiently stabilized so that the patient may be safely transported to another hospital, or is such that, in the determination of the attending physician, the transfer of the patient constitutes an acceptable risk. Such a determination must be based upon the condition of the patient, the expected benefits, if any, to the patient resulting from the transfer and whether the risks to the patient's health are outweighed by the expected benefits, and must be documented in the patient's records before the transfer.

(c) *"Provider of emergency medical services" has the meaning ascribed to it in NRS 450B.790.*

~~16.1~~ 8. If an allegation of a violation of the provisions of subsection ~~12.1~~ 4 is made against a hospital licensed pursuant to the provisions of chapter 449 of NRS, the Division of Public and Behavioral Health of the Department shall conduct an investigation of the alleged violation. Such a violation, in addition to any criminal penalties that may be imposed, constitutes grounds for the denial,



1 suspension or revocation of such a license, or for the imposition of
2 any sanction prescribed by NRS 449.163.

3 ~~[7]~~ 9. If an allegation of a violation of the provisions of
4 subsection ~~[2]~~ 4 is made against:

5 (a) A physician licensed to practice medicine pursuant to the
6 provisions of chapter 630 of NRS, the Board of Medical Examiners
7 shall conduct an investigation of the alleged violation. Such a
8 violation, in addition to any criminal penalties that may be imposed,
9 constitutes grounds for initiating disciplinary action or denying
10 licensure pursuant to the provisions of subsection 3 of
11 NRS 630.3065.

12 (b) An osteopathic physician licensed to practice osteopathic
13 medicine pursuant to the provisions of chapter 633 of NRS, the
14 State Board of Osteopathic Medicine shall conduct an investigation
15 of the alleged violation. Such a violation, in addition to any criminal
16 penalties that may be imposed, constitutes grounds for initiating
17 disciplinary action pursuant to the provisions of subsection 1 of
18 NRS 633.131.

19 **Sec. 2.** This act becomes effective on July 1, 2015.

