

ASSEMBLY BILL NO. 89—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE
ON HEALTH CARE)

PREFILED JANUARY 30, 2017

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to surgical centers for ambulatory patients. (BDR 40-364)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 surgical centers for ambulatory patients; requiring the Department of Health and Human Services to impose a civil penalty against a surgical center for ambulatory patients for certain violations; limiting the authority of the Department to suspend the collection or dissemination of certain information; prohibiting a surgical center for ambulatory patients from performing certain types of surgery; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires the Department of Health and Human Services to
2 establish and maintain a program to increase public awareness of health care
3 information concerning hospitals and surgical centers for ambulatory patients.
4 (NRS 439A.200-439A.290) Pursuant to the program, the Department is required to
5 collect, maintain and provide certain information concerning the charges imposed
6 and quality of care provided by surgical centers for ambulatory patients. (NRS
7 439A.240, 439A.250) Additionally, existing law: (1) requires the Department to
8 notify a surgical center for ambulatory patients each time the center fails to provide
9 required information or provides incomplete or inaccurate information; and (2)
10 authorizes the Department to impose a civil penalty of not more than \$20,000 for
11 each such violation. (NRS 439A.250, 439A.310) **Section 1** of this bill requires the
12 Department to impose such a civil penalty against any surgical center for
13 ambulatory patients that has received two or more notices for failing to provide



required information or providing incomplete or inaccurate information and commits another such violation.

Existing law requires the Department to suspend certain of its programs or duties if it determines that sufficient money is not available to carry them out. (NRS 439A.280) In such circumstances, **section 2** of this bill requires the Department to give priority to the continuation of those programs and duties relating to the collection and dissemination of information relating to surgical centers for ambulatory patients.

Existing law requires the Division of Public and Behavioral Health of the Department to license and regulate surgical centers for ambulatory patients. (NRS 449.0151, 449.030-449.2428, 449.445-449.448) **Section 3** of this bill prohibits a center from performing any type of surgery that routinely results in the patient being admitted to another medical facility within 24 hours after being discharged from the center. **Section 3** also requires the State Board of Health to adopt regulations prescribing the prohibited types of surgery. **Section 6** of this bill authorizes the Division to impose administrative sanctions against any center that performs a prohibited surgery.

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

Section 1. NRS 439A.250 is hereby amended to read as follows:

439A.250 1. The Department shall, by regulation:

(a) Prescribe the information that each surgical center for ambulatory patients in this State must submit to the Department for the program as set forth in NRS 439A.240 and the form for submission of such information.

(b) Prescribe the measures of quality for surgical centers for ambulatory patients that are required pursuant to paragraph (b) of subsection 2 of NRS 439A.240. In adopting the regulations, the Department shall:

(1) Use measures of quality which are substantially similar to those required pursuant to subparagraph (1) of paragraph (b) of subsection 1 of NRS 439A.230;

(2) Prescribe a reasonable number of measures of quality which must not be unduly burdensome on the surgical centers for ambulatory patients; and

(3) Take into consideration the financial burden placed on the surgical centers for ambulatory patients to comply with the regulations.

↪ The measures prescribed pursuant to this paragraph must report health outcomes of surgical centers for ambulatory patients, which do not necessarily correlate with the outpatient treatments posted on the Internet website pursuant to NRS 439A.270.



1 (c) Require each surgical center for ambulatory patients to
2 provide the information prescribed in paragraphs (a) and (b) in the
3 format required by the Department.

4 (d) Prescribe which surgical centers for ambulatory patients in
5 this State must participate in the program established pursuant to
6 NRS 439A.240.

7 2. The information required pursuant to this section and NRS
8 439A.240 must be submitted to the Department not later than 45
9 days after the last day of each calendar month.

10 3. If a surgical center for ambulatory patients fails to submit
11 the information required pursuant to this section or NRS 439A.240
12 or submits information that is incomplete or inaccurate, the
13 Department shall send a notice of such failure to the surgical center
14 for ambulatory patients and to the Division of Public and Behavioral
15 Health of the Department. *If a surgical center for ambulatory*
16 *patients that has received two or more such notices fails to submit*
17 *such information or submits information that is incomplete or*
18 *inaccurate, the Department shall impose a civil penalty against*
19 *the surgical center for ambulatory patients pursuant to*
20 *NRS 439A.310.*

21 **Sec. 2.** NRS 439A.280 is hereby amended to read as follows:

22 439A.280 1. On or before July 1 of each odd-numbered year,
23 the Department shall make a determination of whether sufficient
24 money is available and authorized for expenditure to fund one or
25 more components of the programs and other duties of the
26 Department relating to NRS 439A.200 to 439A.290, inclusive.

27 2. ~~The~~ *Subject to the limitations of this subsection, the*
28 Department shall temporarily suspend any components of the
29 ~~program~~ *programs* or duties of the Department for which it
30 determines pursuant to subsection 1 that sufficient money is not
31 available. *The Department shall give priority to the continuation of*
32 *the programs and duties prescribed by NRS 439A.240 and*
33 *439A.250, so that any suspension of those programs or duties is*
34 *effected only after the suspension of the other programs and duties*
35 *described in subsection 1.*

36 3. The Department may accept any gift, donation, bequest,
37 grant or other source of money for the purpose of carrying out the
38 provisions of NRS 439A.200 to 439A.290, inclusive.

39 **Sec. 3.** Chapter 449 of NRS is hereby amended by adding
40 thereto a new section to read as follows:

41 1. *A surgical center for ambulatory patients shall not perform*
42 *any type of surgery that routinely results in the patient being*
43 *admitted to another medical facility within 24 hours after being*
44 *discharged from the surgical center for ambulatory patients.*



1 **2. The Board shall prescribe by regulation the types of**
2 **surgeries that a surgical center for ambulatory patients is**
3 **prohibited by subsection 1 from performing.**

4 **Sec. 4.** NRS 449.435 is hereby amended to read as follows:

5 449.435 As used in NRS 449.435 to 449.448, inclusive, **and**
6 **section 3 of this act**, unless the context otherwise requires, the
7 words and terms defined in NRS 449.436 to 449.439, inclusive,
8 have the meanings ascribed to them in those sections.

9 **Sec. 5.** NRS 449.441 is hereby amended to read as follows:

10 449.441 The provisions of NRS 449.435 to 449.448, inclusive,
11 **and section 3 of this act** do not apply to an office of a physician or a
12 facility that provides health care, other than a medical facility, if the
13 office of a physician or the facility only administers a medication to
14 a patient to relieve the patient's anxiety or pain and if the
15 medication is not given in a dosage that is sufficient to induce in a
16 patient a controlled state of depressed consciousness or
17 unconsciousness similar to general anesthesia, deep sedation or
18 conscious sedation.

19 **Sec. 6.** NRS 449.447 is hereby amended to read as follows:

20 449.447 1. If an office of a physician or a facility that
21 provides health care, other than a medical facility, violates the
22 provisions of NRS 449.435 to 449.448, inclusive, **and section 3 of**
23 **this act**, or the regulations adopted pursuant thereto, or fails to
24 correct a deficiency indicated in a report pursuant to NRS 449.446,
25 the Division, in accordance with the regulations adopted pursuant to
26 NRS 449.448, may take any of the following actions:

27 (a) Decline to issue or renew a permit;
28 (b) Suspend or revoke a permit; or
29 (c) Impose an administrative penalty of not more than \$1,000
30 per day for each violation, together with interest thereon at a rate not
31 to exceed 10 percent per annum.

32 2. The Division may review a report submitted pursuant to
33 NRS 630.30665 or 633.524 to determine whether an office of a
34 physician or a facility is in violation of the provisions of NRS
35 449.435 to 449.448, inclusive, **and section 3 of this act**, or the
36 regulations adopted pursuant thereto. If the Division determines that
37 such a violation has occurred, the Division shall immediately notify
38 the appropriate professional licensing board of the physician.

39 3. If a surgical center for ambulatory patients violates the
40 provisions of NRS 449.435 to 449.448, inclusive, **and section 3 of**
41 **this act**, or the regulations adopted pursuant thereto, or fails to
42 correct a deficiency indicated in a report pursuant to NRS 449.446,
43 the Division may impose administrative sanctions pursuant to
44 NRS 449.163.



Sec. 7. NRS 449.448 is hereby amended to read as follows:

449.448 1. The Board shall adopt regulations to carry out the provisions of NRS 449.435 to 449.448, inclusive, *and section 3 of this act*, including, without limitation, regulations which:

(a) Prescribe the amount of the fee required for applications for the issuance and renewal of a permit pursuant to NRS 449.443 and 449.444.

(b) Prescribe the procedures and standards for the issuance and renewal of a permit.

(c) Identify the nationally recognized organizations approved by the Board for the purposes of the accreditation required for the issuance of a:

(1) License to operate a surgical center for ambulatory patients.

(2) Permit for an office of a physician or a facility that provides health care, other than a medical facility, to offer to a patient a service of general anesthesia, conscious sedation or deep sedation.

(d) Prescribe the procedures and scope of the inspections conducted by the Division pursuant to NRS 449.446.

(e) Prescribe the procedures and time frame for correcting each deficiency indicated in a report pursuant to NRS 449.446.

(f) Prescribe the criteria for the imposition of each sanction prescribed by NRS 449.447, including, without limitation:

(1) Setting forth the circumstances and manner in which a sanction applies;

(2) Minimizing the time between the identification of a violation and the imposition of a sanction; and

(3) Providing for the imposition of incrementally more severe sanctions for repeated or uncorrected violations.

2. The regulations adopted pursuant to this section must require that the practices and policies of each holder of a permit to offer to a patient a service of general anesthesia, conscious sedation or deep sedation and each holder of a license to operate a surgical center for ambulatory patients provide adequately for the protection of the health, safety and well-being of patients.

Sec. 8. 1. This section becomes effective upon passage and approval.

2. Sections 1 and 2 of this act become effective on July 1, 2017.



1 3. Sections 3 to 7, inclusive, of this act become effective upon
2 passage and approval for the purpose of adopting regulations and
3 performing any other administrative tasks that are necessary to carry
4 out the provisions of those sections, and on January 1, 2018, for all
5 other purposes.

