

Amendment No. 423

Assembly Amendment to Assembly Bill No. 89	(BDR 40-364)
<b>Proposed by:</b> Assembly Committee on Health and Human Services	
<b>Amends:</b> Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

MKM/BJF



Date: 4/19/2017

A.B. No. 89—Revises provisions relating to surgical centers for ambulatory patients. (BDR 40-364)





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 Division of Public and Behavioral Health of the Department of Health and Human Services to ~~impose a civil penalty against a~~ submit a quarterly report to the Legislature relating to surgical ~~center~~ centers for ambulatory patients; ~~for certain violations; limiting the authority of~~ prohibiting the Department from exercising its authority 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:**

Existing law requires the Department of Health and Human Services to establish and maintain a program to increase public awareness of health care information concerning hospitals and surgical centers for ambulatory patients. (NRS 439A.200-439A.290) Pursuant to the program, the Department is required to collect, maintain and provide certain information concerning the charges imposed and quality of care provided by surgical centers for ambulatory patients. (NRS 439A.240, 439A.250) Additionally, existing law: (1) requires the Department to notify a surgical center for ambulatory patients each time the center fails to provide required information or provides incomplete or inaccurate information; and (2) authorizes the Department to impose a civil penalty of not more than \$20,000 for each such violation. (NRS 439A.250, 439A.310) ~~Section 1 of this bill requires the Department to impose such a civil penalty against any surgical center for 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~~ prohibits the Department ~~to give priority to~~

17 ~~the continuation of those~~ **from suspending** programs and duties relating to the collection and  
18 dissemination of information relating to surgical centers for ambulatory patients.

19 ~~Existing law~~ **Section 3.6 of this bill** requires the Division of Public and Behavioral  
20 Health of the Department to ~~license and regulate surgical centers for ambulatory patients~~  
21 ~~(NRS 449.0151, 449.020, 449.2428, 449.445, 449.448). Section 2 of this bill prohibits a center~~  
22 ~~from performing any type of surgery that routinely results in the patient being admitted to~~  
23 ~~another medical facility within 24 hours after being discharged from the center. Section 2 also~~  
24 ~~requires the State Board of Health to adopt regulations prescribing the prohibited types of~~  
25 ~~surgery. Section 6 of this bill authorizes the Division to impose administrative sanctions~~  
26 ~~against any center that performs a prohibited surgery.~~ **submit a quarterly report to the**  
27 **Legislature concerning information submitted to the Division by a surgical center for**  
28 **ambulatory patients relating to the discharge location of its patients.**

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

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

2 ~~439A.250. 1. The Department shall, by regulation:~~

3 ~~(a) Prescribe the information that each surgical center for ambulatory patients~~  
4 ~~in this State must submit to the Department for the program as set forth in NRS~~  
5 ~~439A.240 and the form for submission of such information.~~

6 ~~(b) Prescribe the measures of quality for surgical centers for ambulatory~~  
7 ~~patients that are required pursuant to paragraph (b) of subsection 2 of NRS~~  
8 ~~439A.240. In adopting the regulations, the Department shall:~~

9 ~~(1) Use measures of quality which are substantially similar to those~~  
10 ~~required pursuant to subparagraph (1) of paragraph (b) of subsection 1 of NRS~~  
11 ~~439A.230.~~

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

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

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

19 ~~(c) Require each surgical center for ambulatory patients to provide the~~  
20 ~~information prescribed in paragraphs (a) and (b) in the format required by the~~  
21 ~~Department.~~

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

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

27 ~~3. If a surgical center for ambulatory patients fails to submit the information~~  
28 ~~required pursuant to this section or NRS 439A.240 or submits information that is~~  
29 ~~incomplete or inaccurate, the Department shall send a notice of such failure to the~~  
30 ~~surgical center for ambulatory patients and to the Division of Public and Behavioral~~  
31 ~~Health of the Department. If a surgical center for ambulatory patients that has~~  
32 ~~received two or more such notices fails to submit such information or submits~~  
33 ~~information that is incomplete or inaccurate, the Department shall impose a civil~~  
34 ~~penalty against the surgical center for ambulatory patients pursuant to NRS~~  
35 ~~439A.310.~~ **(Deleted by amendment.)**

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

2        439A.280 1. On or before July 1 of each odd-numbered year, the  
3        Department shall make a determination of whether sufficient money is available  
4        and authorized for expenditure to fund one or more components of the programs  
5        and other duties of the Department relating to NRS 439A.200 to 439A.290,  
6        inclusive.

7        2. ~~The~~ Subject to the limitations of this subsection, the Department shall  
8        temporarily suspend any components of the program ~~programs~~ or duties of the  
9        Department, other than those set forth in NRS 439A.240 and 439A.250, for which  
10       it determines pursuant to subsection 1 that sufficient money is not available. ~~The~~  
11       ~~Department shall give priority to the continuation of the programs and duties~~  
12       ~~prescribed by NRS 439A.240 and 439A.250, so that any suspension of those~~  
13       ~~programs or duties is effected only after the suspension of the other programs~~  
14       ~~and duties described in subsection 1.~~

15       3. The Department may accept any gift, donation, bequest, grant or other  
16       source of money for the purpose of carrying out the provisions of NRS 439A.200 to  
17       439A.290, inclusive.

18       **Sec. 3.** Chapter 449 of NRS is hereby amended by adding thereto ~~to new~~  
19       ~~section to read~~ the provisions set forth as ~~follows~~ sections 3.3 and 3.6 of this  
20       act.

21       **Sec. 3.3. The Legislature finds and declares that:**

22       1. ~~A surgical center~~ This State has a compelling interest in assuring that  
23       residents of this State have access to health care;

24       2. Surgical centers for ambulatory patients ~~shall not perform any type of~~  
25       ~~surgery that routinely results in the patient being admitted to another medical~~  
26       ~~facility within 24 hours after being discharged from the surgical center for~~  
27       ~~ambulatory patients.~~

28       2. ~~The Board shall prescribe by regulation the types of surgeries that a~~  
29       ~~surgical center for~~ play an important role in providing essential health care  
30       services and have become a critical element in the delivery of health care in this  
31       State; and

32       3. A license issued by this State to operate a surgical center for ambulatory  
33       patients ~~is prohibited~~ pursuant to this chapter should be accompanied by  
34       ~~subsection 1 from performing~~ oversight by the agency issuing the license.

35       **Sec. 3.6. The Division shall:**

36       1. Compile the information collected from and submitted by surgical centers  
37       for ambulatory patients to the Department pursuant to NRS 439A.240, 439A.250  
38       and 439A.260 and any regulations adopted pursuant thereto, and prepare a  
39       quarterly report that:

40       (a) Identifies the discharge location of each patient of a surgical center for  
41       ambulatory patients; and

42       (b) Compares the discharge location of patients of surgical centers for  
43       ambulatory patients in different geographical regions of this State; and

44       2. Submit the quarterly report prepared pursuant to subsection 1 to the  
45       Director of the Legislative Counsel Bureau for transmittal to the Legislature.

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

47       449.435 As used in NRS 449.435 to 449.448, inclusive, ~~and section 3~~  
48       sections 3.3 and 3.6 of this act, unless the context otherwise requires, the words  
49       and terms defined in NRS 449.436 to 449.439, inclusive, have the meanings  
50       ascribed to them in those sections.

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

52       449.441 The provisions of NRS 449.435 to 449.448, inclusive, ~~and section~~  
53       3 sections 3.3 and 3.6 of this act do not apply to an office of a physician or a

1 facility that provides health care, other than a medical facility, if the office of a  
2 physician or the facility only administers a medication to a patient to relieve the  
3 patient's anxiety or pain and if the medication is not given in a dosage that is  
4 sufficient to induce in a patient a controlled state of depressed consciousness or  
5 unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

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

7 449.447 1. If an office of a physician or a facility that provides health care,  
8 other than a medical facility, violates the provisions of NRS 449.435 to 449.448,  
9 inclusive, ~~and section 3.3~~ sections 3.3 and 3.6 of this act, or the regulations  
10 adopted pursuant thereto, or fails to correct a deficiency indicated in a report  
11 pursuant to NRS 449.446, the Division, in accordance with the regulations adopted  
12 pursuant to NRS 449.448, may take any of the following actions:

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

18 2. The Division may review a report submitted pursuant to NRS 630.30665 or  
19 633.524 to determine whether an office of a physician or a facility is in violation of  
20 the provisions of NRS 449.435 to 449.448, inclusive, ~~and section 3.3~~ sections 3.3  
21 and 3.6 of this act, or the regulations adopted pursuant thereto. If the Division  
22 determines that such a violation has occurred, the Division shall immediately notify  
23 the appropriate professional licensing board of the physician.

24 3. If a surgical center for ambulatory patients violates the provisions of NRS  
25 449.435 to 449.448, inclusive, ~~and section 3.3~~ sections 3.3 and 3.6 of this act, or  
26 the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in  
27 a report pursuant to NRS 449.446, the Division may impose administrative  
28 sanctions pursuant to NRS 449.163.

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

30 449.448 1. The Board shall adopt regulations to carry out the provisions of  
31 NRS 449.435 to 449.448, inclusive, ~~and section 3.3~~ sections 3.3 and 3.6 of this act,  
32 including, without limitation, regulations which:

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

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

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

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

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

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

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

47 (f) Prescribe the criteria for the imposition of each sanction prescribed by NRS  
48 449.447, including, without limitation:

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

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

52 (3) Providing for the imposition of incrementally more severe sanctions for  
53 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. 7.5. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.**

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

**~~2. Sections 1 and 2 of this act {become} becomes effective on July 1, 2017.~~**

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