

SENATE BILL NO. 189—SENATORS RATTI AND HARDY

FEBRUARY 18, 2019

JOINT SPONSOR: ASSEMBLYWOMAN TITUS

Referred to Committee on Health and Human Services

SUMMARY—Prescribes a procedure to address a patient who requests certain treatment. (BDR 40-525)

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 health care; prescribing a procedure to address a patient who requests treatment that would be medically ineffective or contrary to reasonable medical standards; providing certain persons with immunity from discipline and civil and criminal liability if that procedure is followed; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the appropriate licensing board to impose professional discipline upon a physician, physician assistant or nurse who provides treatment that violates standards of practice, is unsafe or he or she is not qualified to provide. (NRS 630.306, 632.347, 633.131, 633.511) **Section 3** of this bill prescribes a process that a provider of health care is required to follow if a patient in a hospital or a representative of such a patient requests treatment that the provider of health care has determined would be medically ineffective or contrary to reasonable medical standards. That process includes attempting to transfer the patient to a provider of health care or medical facility that is willing to provide the requested treatment. **Sections 1 and 3** of this bill provide that, if the patient cannot be transferred, a provider of health care or medical facility that provides care to the patient is not subject to discipline, does not violate any applicable standard of care and is immune from civil or criminal liability for the failure to provide the requested treatment. **Section 2** of this bill makes a conforming change.



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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:

A medical facility is not subject to disciplinary action, shall not be found to have violated any standard of care and is immune from civil and criminal liability for refusing to provide care or treatment requested by a patient at the medical facility, or by another person on behalf of such a patient, if a provider of health care:

1. Has determined that the treatment of care would not be effective or is contrary to reasonable medical standards; and

2. Complies with the requirements of section 3 of this act.

Sec. 2. NRS 449.210 is hereby amended to read as follows:

449.210 1. In addition to the payment of the amount required by NRS 449.0308 and any civil penalty imposed pursuant to subsection 4, a person who operates a medical facility, facility for the dependent or a facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed without a license issued by the Division is guilty of a misdemeanor.

2. If the Division believes that a person is operating a medical facility, facility for the dependent or a facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed without such a license, the Division may issue an order to cease and desist the operation of the facility. The order must be served upon the person by personal delivery or by certified or registered mail, return receipt requested. The order is effective upon service.

3. If a person does not voluntarily cease operating a medical facility, facility for the dependent or a facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed without a license or apply for licensure within 30 days after the date of service of the order pursuant to subsection 2, the Division may bring an action in a court of competent jurisdiction pursuant to NRS 449.220.

4. Upon a showing by the Division that a person is operating a medical facility, facility for the dependent or a facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed without a license, a court of competent jurisdiction may:

(a) Enjoin the person from operating the facility.

(b) Impose a civil penalty on the operator to be recovered by the Division of not more than \$10,000 for the first offense or not less



1 than \$10,000 or more than \$25,000 for a second or subsequent
2 offense.

3 5. Unless otherwise required by federal law, the Division shall
4 deposit all civil penalties collected pursuant to paragraph (b) of
5 subsection 4 into a separate account in the State General Fund to be
6 used to administer and carry out the provisions of NRS 449.001 to
7 449.430, inclusive, *and section 1 of this act* and to protect the
8 health, safety, well-being and property of the patients and residents
9 of facilities in accordance with applicable state and federal
10 standards.

11 **Sec. 3.** Chapter 629 of NRS is hereby amended by adding
12 thereto a new section to read as follows:

13 *1. A provider of health care is not required to provide care or*
14 *treatment requested by a patient, or by another person on behalf of*
15 *a patient, if the provider of health care determines that the care or*
16 *treatment requested would not be effective or is contrary to*
17 *reasonable medical standards.*

18 *2. A provider of health care who refuses to provide care or*
19 *treatment pursuant to subsection 1 shall explain to the patient or*
20 *the person who requested the care or treatment, or both, as*
21 *appropriate, the reasons for refusing to provide the requested care*
22 *or treatment.*

23 *3. If the patient or the person who requested the care or*
24 *treatment on behalf of the patient continues to request the care or*
25 *treatment after receiving the explanation from the provider of*
26 *health care pursuant to subsection 2, the provider of health care*
27 *must offer to:*

28 *(a) Obtain another medical opinion;*

29 *(b) Obtain an opinion from a committee established by the*
30 *medical facility at which the patient is receiving care, if*
31 *applicable;*

32 *(c) Seek to transfer the care of the patient to another provider*
33 *of health care who is willing to provide the care or treatment*
34 *requested; or*

35 *(d) Take any combination of the actions described in*
36 *paragraphs (a), (b) and (c).*

37 *4. A provider of health care who refuses to provide care or*
38 *treatment as authorized by this section shall continue to provide*
39 *appropriate care and treatment to the patient in accordance with*
40 *reasonable medical standards until another provider of health*
41 *care assumes responsibility for the care of the patient. Such*
42 *continued care and treatment may include, without limitation,*
43 *palliative care and the provision of appropriate relief from pain*
44 *and other symptoms.*



1 5. *A provider of health care who refuses to provide care or*
2 *treatment as authorized by this section and complies with the*
3 *requirements of subsections 2, 3 and 4 is not subject to*
4 *professional discipline, shall not be found to have violated any*
5 *applicable standard of care and is immune from civil or criminal*
6 *liability for failing to provide the care or treatment.*

7 6. *As used in this section, “medical facility” has the meaning*
8 *ascribed to it in NRS 449.0151.*

9 **Sec. 4.** This act becomes effective on July 1, 2019.

