Committee Action:
Do Pass _____
Amend & Do Pass _____
Other _____

Assembly Committee on Health and Human Services

This measure may be considered for action during today's work session.

ASSEMBLY BILL 368

Revises provisions governing electronic communication devices in certain health care facilities. (BDR 40-878)

Sponsored By:	Assemblymember Carter
Date Heard:	March 21, 2025
Fiscal Notes:	Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No.

Assembly Bill 368 authorizes a patient in any assisted living facility to install an electronic communication device under the same conditions as existing law establishes for a patient in a skilled nursing facility.

Amendments:

Assemblymember Carter proposed an amendment to add the relevant provisions of the bill to Chapter 435 ("Persons With Intellectual Disabilities and Developmental Disabilities") of *Nevada Revised Statutes* to:

1. Allow people living in a facility operated by supported living arrangement providers to install electronic communication devices in their living quarters; and

2. Prohibit a supported living arrangement provider, that provides services in a person's home, from refusing to deliver services to a person who has an electronic communication device installed in his or her home.

Assemblymember Brown-May proposed an amendment to:

1. Revise Section 3 to include a unit in a living community for people with disabilities for the provision of assisted living services or a living community for people with disabilities that provides only assisted living services; and

2. Add a definition for "living community for persons with disabilities" to mean:

    a. A home for individual residential care, residential facility for groups, facility for intermediate care, facility for skilled nursing, assisted living facility, or a home or village that primarily provides services to persons with intellectual disabilities or physical disabilities; or

    b. Any other group housing arrangement that provides assistance, food, shelter, or limited supervision to persons with intellectual disabilities or physical disabilities.

Joe Lombardo
Governor

Richard Whitley, MS
Director

DEPARTMENT OF HEALTH AND HUMAN SERVICES

AGING AND DISABILITY SERVICES DIVISION

Helping people. It's who we are and what we do.

Dena Schmidt
Administrator

Memorandum

DATE: April 3, 2025

TO: Assemblymember Max E. Carter, II

FROM: Dena Schmidt, Administrator

SUBJECT: AB 368

The Aging and Disability Services Division (ADSD) has reviewed the conceptual amendment to AB 368, which would include Supported Living Arrangements (SLAs) as a type of "facility" where a patient or his or her representative can request the installation and use of an electronic communication device in the living quarters of the patient. SLA services provided to individuals with intellectual and developmental disabilities are certified by ADSD pursuant to Nevada Revised Statutes (NRS) 435.3305-435.339. As such, adding SLA services into NRS 449 for this purpose would likely not achieve the desired result as the Division of Public and Behavioral Health (DPBH) has no licensing authority over SLA services.

SLA services are funded through a Medicaid Home and Community Based Services Waiver, which is a different type of Medicaid funding than used by most facilities licensed through NRS 449. Under a Medicaid Home and Community Services Waiver, providers of service, including SLA providers, must ensure the individual's right to privacy (42 C.F.R. § 441.301 (c)(4)(iii)). Additionally, if the provider of service needs to restrict the rights of any individual, it must be due to a specific need that has gone through due process to ensure the restriction (42 C.F.R. § 441.301 (c)(4)(vi)(F).

ADSD respectfully makes the following suggestions for an AB 368 amendment to include SLA services.

- Needed language authorizing an electronic communication device in the living quarters of an individual served in a Supported Living Arrangement should be added to NRS 435, not NRS 449. Please note NRS 435 does not use the word "patient" and instead uses the word "person" to describe people receiving services.
- The overall concept of sections 8-11 and 13 can be added to NRS 435, with the removal of any references to NRS 449.
- NRS 435 does not currently contain entirely similar language to sections 1 or 12 of the bill. Per NRS 435.333, ADSD has adopted NAC 435 regulation that allows ADSD to investigate, suspend, deny, and revoke SLA certification for provider agencies who are not meeting required laws, regulations and standards of service provision. ADSD does not currently have any mechanism to impose monetary fines to employees or provider agencies who violate NRS 435.

- To ensure SLA services remain in compliance with the above-mentioned C.F.R.'s related to rights restrictions, the electronic communication device cannot be used to control the actions of the person served, nor can the representative expect the SLA provider to impose rights restrictions on the person served because of what a representative may observe on the electronic communication device.
- Video taken of staff cannot be posted to public media channels, such as YouTube, Tik Tok, Facebook, etc. Unfortunately, we have experienced previous incidents of persons served posting inappropriate videos of staff, without their consent, to public channels. These videos have been vulgar in nature and focused on the staff's body, such as breasts, buttocks, etc.

Thank you for your consideration and please reach out if you have any questions.

Dena Schmidt
dschmidt@adsd.nv.gov
775-400-0588