

SENATE BILL NO. 177—COMMITTEE ON  
HEALTH AND HUMAN SERVICES

FEBRUARY 19, 2015

Referred to Committee on Health and Human Services

SUMMARY—Allows a person to designate a caregiver when admitted to a hospital or in an advance directive. (BDR 40-512)

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 public health; authorizing certain persons to designate a caregiver for a person in certain circumstances; requiring a hospital to provide an opportunity for a patient who is admitted as an inpatient or certain other persons to designate a caregiver for the patient; requiring a hospital to attempt to provide certain notification, information and training to a caregiver before taking certain actions concerning a patient; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law establishes various forms of declarations and advance directives  
2 that a person may use to set forth his or her wishes concerning end-of-life care.  
3 (NRS 162A.700-162A.860, 449.535-449.697, 450B.400-450B.475) **Sections 7 and**  
4 **15-19** of this bill authorize a person, a legal representative of a person who is  
5 incompetent or a parent or guardian of a person who is a minor to designate one or  
6 more caregivers for the person: (1) in an advance directive; or (2) upon admission  
7 of the person to a hospital as an inpatient. **Section 7** also provides that a person is  
8 under no obligation to a patient solely because the person has been designated as a  
9 caregiver for another person.  
10 **Section 8** of this bill requires a hospital to provide the opportunity to designate  
11 one or more caregivers for: (1) a patient who is admitted to the hospital as an  
12 inpatient and has not previously designated a caregiver in an advance directive; (2)  
13 a legal representative of such a patient who is incompetent; or (3) a parent or  
14 guardian of such a patient who is a minor. **Section 8** also requires a hospital to  
15 provide a patient who was unconscious or otherwise incompetent upon admission  
16 but regains competence while an inpatient at the hospital with an opportunity to  
17 designate or change his or her caregiver. **Section 9** of this bill requires a hospital to



18 record the designation of a caregiver or declination to do so in the medical record of  
19 the patient.

20 Federal regulations provide that certain health information concerning a patient  
21 can only be released by a health care facility in certain circumstances. (45 C.F.R. §  
22 164.502(a)) Federal regulations authorize the release of health information relevant  
23 to the care of a patient to a person designated by the patient or the patient's  
24 representative. (45 C.F.R. § 164.510(b)(1)(i)) If a patient has a designated  
25 caregiver, **section 9** requires a hospital to request the written consent of the patient,  
26 the representative of the patient or the parent or guardian of the patient, as  
27 applicable, to release medical information to the caregiver.

28 If a patient provides such consent, **sections 10 and 11** of this bill require a  
29 hospital to attempt to notify a caregiver of the planned discharge or transfer of the  
30 patient and attempt to provide the caregiver with certain information and training  
31 concerning aftercare for the patient. **Section 12** of this bill requires a hospital to  
32 proceed with the planned discharge or transfer of the patient if the hospital is not  
33 successful in providing this notification, information and training to the caregiver.  
34 **Section 13** of this bill provides that a hospital is not liable for aftercare provided  
35 improperly or not provided by the caregiver.

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

1 **Section 1.** Chapter 449 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 to 14, inclusive, of this  
3 act.

4 **Sec. 2.** *As used in sections 2 to 14, inclusive, of this act,*  
5 *unless the context otherwise requires, the words and terms defined*  
6 *in sections 3 to 6, inclusive, of this act have the meanings ascribed*  
7 *to them in those sections.*

8 **Sec. 3.** *“Advance directive” has the meaning ascribed to it in*  
9 *NRS 449.905.*

10 **Sec. 4.** *“Aftercare” means care or assistance that is provided*  
11 *to a patient after the patient is discharged following inpatient*  
12 *treatment at a hospital.*

13 **Sec. 5.** *“Caregiver” means a person designated as such*  
14 *pursuant to section 7 of this act, including, without limitation, a*  
15 *relative, spouse, partner, foster parent, friend or neighbor.*

16 **Sec. 6.** *“Representative of the patient” means a legal*  
17 *guardian of the patient, a person designated by the patient to make*  
18 *decisions governing the withholding or withdrawal of life-*  
19 *sustaining treatment pursuant to NRS 449.600 or a person given*  
20 *power of attorney to make decisions concerning health care for*  
21 *the patient pursuant to NRS 162A.700 to 162A.860, inclusive.*

22 **Sec. 7.** 1. *One or more caregivers may be designated for a*  
23 *person by:*

24 (a) *The person if he or she is 18 years of age or older and of*  
25 *sound mind;*



1 (b) *The representative of the person if the person is 18 years of*  
2 *age or older and incompetent; or*

3 (c) *The parent or legal guardian of the person if the person is*  
4 *less than 18 years of age.*

5 2. *A person described in subsection 1 may have designated*  
6 *for him or her one or more caregivers:*

7 (a) *Upon the admission of the person to a hospital as an*  
8 *inpatient in the manner described in section 8 of this act; or*

9 (b) *In an advance directive.*

10 3. *A caregiver may be changed or a new caregiver may be*  
11 *added at any time by:*

12 (a) *The person if he or she is 18 years of age or older and of*  
13 *sound mind;*

14 (b) *The representative of the person if the person is 18 years of*  
15 *age or older and incompetent; or*

16 (c) *The parent or legal guardian of the person if the person is*  
17 *less than 18 years of age.*

18 4. *A caregiver is under no obligation to a person solely*  
19 *because the person, the representative of the person or the parent*  
20 *or guardian of the person has designated the caregiver pursuant to*  
21 *this section.*

22 5. *As used in this section, "representative of the person"*  
23 *means a legal guardian of the person, a person designated by the*  
24 *person to make decisions governing the withholding or withdrawal*  
25 *of life-sustaining treatment pursuant to NRS 449.600 or a person*  
26 *given power of attorney to make decisions concerning health care*  
27 *for the person pursuant to NRS 162A.700 to 162A.860, inclusive.*

28 **Sec. 8.** 1. *After admitting a patient for whom a caregiver*  
29 *has not been designated in an advance directive as an inpatient*  
30 *and before discharging the patient, a hospital shall provide the*  
31 *opportunity to designate one or more caregivers for the patient to:*

32 (a) *The patient if he or she is 18 years of age or older and of*  
33 *sound mind;*

34 (b) *The representative of the patient if the patient is 18 years of*  
35 *age or older and incompetent; or*

36 (c) *The parent or legal guardian of the patient if the patient is*  
37 *less than 18 years of age.*

38 2. *If a patient for whom a caregiver has not been designated*  
39 *in an advance directive is unconscious or otherwise incompetent*  
40 *upon admission to a hospital as an inpatient and later regains*  
41 *competence while he or she is an inpatient at the hospital, the*  
42 *hospital shall, after the patient regains competence, provide the*  
43 *patient with the opportunity to designate one or more caregivers*  
44 *or, if a caregiver has been designated by the representative of the*  
45 *patient, to remove or change his or her caregiver.*



1     **Sec. 9. 1.** *If a caregiver has been designated in an advance*  
2 *directive for a patient who is admitted to a hospital as an inpatient*  
3 *or the patient, the representative of the patient or the parent or*  
4 *guardian of such a patient designates or changes a caregiver*  
5 *pursuant to section 8 of this act, the hospital shall:*

6     *(a) Record the designation or change of the caregiver, the*  
7 *relationship of the caregiver to the patient and the name,*  
8 *telephone number and address of the caregiver in the medical*  
9 *record of the patient; and*

10    *(b) Request the written consent of the patient, the*  
11 *representative of the patient or the parent or guardian of*  
12 *the patient, as applicable, to release medical information to the*  
13 *caregiver in compliance with the Health Insurance Portability and*  
14 *Accountability Act of 1996, Public Law 104-191 and the*  
15 *regulations adopted pursuant thereto.*

16    **2.** *If a patient, the representative of a patient or the parent or*  
17 *guardian of a patient declines to designate a caregiver after being*  
18 *given the opportunity to do so pursuant to section 8 of this act, the*  
19 *hospital shall record the declination in the medical record of the*  
20 *patient.*

21     **Sec. 10.** *If a patient, the representative of a patient or the*  
22 *parent or guardian of a patient has provided consent for the*  
23 *hospital to release medical information to a caregiver pursuant to*  
24 *subsection 1 of section 9 of this act, the hospital shall, before the*  
25 *patient is discharged or transferred to another facility, attempt to*  
26 *notify the caregiver of the planned discharge or transfer.*

27     **Sec. 11.** *If a patient, the representative of a patient or the*  
28 *parent or guardian of a patient has provided consent for a hospital*  
29 *to release medical information to a caregiver pursuant to*  
30 *subsection 1 of section 9 of this act, the hospital shall, before the*  
31 *patient is discharged other than to a facility licensed pursuant to*  
32 *this chapter:*

33     **1.** *Attempt to provide the caregiver with a discharge plan. A*  
34 *discharge plan must include, without limitation:*

35     *(a) The name and contact information of the caregiver;*

36     *(b) A description of all necessary aftercare, including, without*  
37 *limitation, any requirements to maintain the ability of the patient*  
38 *to reside at home;*

39     *(c) Contact information for:*

40     *(1) Any providers of health care, community resources or*  
41 *other providers of services necessary to carry out the discharge*  
42 *plan; and*

43     *(2) An employee of the hospital who will be available to*  
44 *answer questions concerning the discharge plan; and*

45     *(d) Any additional information required by the Board.*



1       2. *Attempt to consult with the caregiver, in person or using*  
2 *video technology at the option of the caregiver, concerning the*  
3 *aftercare set forth in the discharge plan. Such consultation must*  
4 *include, without limitation:*

5       (a) *A demonstration of the aftercare set forth in the discharge*  
6 *plan, performed by a person designated by the hospital:*

7           (1) *For whom the aftercare is within the scope of the*  
8 *person's license or certificate; and*

9           (2) *Who can perform the demonstration in a culturally and*  
10 *linguistically appropriate manner;*

11       (b) *An opportunity for the caregiver to ask questions*  
12 *concerning the aftercare; and*

13       (c) *Any additional information required by the Board.*

14       **Sec. 12.** 1. *A hospital shall document in the medical record*  
15 *of the patient:*

16       (a) *The attempt or completion of any actions required*  
17 *pursuant to section 10 or 11 of this act;*

18       (b) *Any instructions given pursuant to section 11 of this act;*  
19 *and*

20       (c) *The date and time at which such instructions were given.*

21       2. *If a hospital is unable to reach a caregiver after attempting*  
22 *to provide any information pursuant to section 10 or 11 of this act,*  
23 *the hospital must proceed with the discharge or transfer of the*  
24 *patient as scheduled.*

25       **Sec. 13.** *A hospital or an employee or contractor of a hospital*  
26 *that acts in compliance with sections 2 to 14, inclusive, of this act*  
27 *is not liable for any aftercare that is provided improperly or not*  
28 *provided by a caregiver.*

29       **Sec. 14.** *The Board may adopt regulations to carry out the*  
30 *provisions of sections 2 to 14, inclusive, of this act, including,*  
31 *without limitation, regulations prescribing additional*  
32 *requirements for a discharge plan or a consultation pursuant to*  
33 *section 11 of this act.*

34       **Sec. 15.** NRS 449.600 is hereby amended to read as follows:

35       449.600 1. A person of sound mind and 18 or more years of  
36 age may execute at any time a declaration governing the  
37 withholding or withdrawal of life-sustaining treatment. The  
38 declarant may designate another natural person of sound mind and  
39 18 or more years of age to make decisions governing the  
40 withholding or withdrawal of life-sustaining treatment. The  
41 declaration must be signed by the declarant, or another at the  
42 declarant's direction, and attested by two witnesses.

43       2. *A person who executes a declaration governing the*  
44 *withholding or withdrawal of life-sustaining treatment may*



1 *designate a caregiver pursuant to section 7 of this act in the same*  
2 *document.*

3 3. A physician or other provider of health care who is furnished  
4 a copy of the declaration shall make it a part of the declarant's  
5 medical record and, if unwilling to comply with the declaration,  
6 promptly so advise the declarant and any person designated to act  
7 for the declarant.

8 **Sec. 16.** NRS 449.694 is hereby amended to read as follows:

9 449.694 The Board shall prescribe a standardized Physician  
10 Order for Life-Sustaining Treatment form, commonly known as a  
11 POLST form, which:

12 1. Is uniquely identifiable and has a uniform color;

13 2. Provides a means by which to indicate whether the patient  
14 has made an anatomical gift pursuant to NRS 451.500 to 451.598,  
15 inclusive;

16 3. Gives direction to a provider of health care or health care  
17 facility regarding the use of emergency care and life-sustaining  
18 treatment;

19 4. Is intended to be honored by any provider of health care who  
20 treats the patient in any health-care setting, including, without  
21 limitation, the patient's residence, a health care facility or the scene  
22 of a medical emergency; ~~and~~

23 5. *Provides a means by which the patient may designate a*  
24 *caregiver pursuant to section 7 of this act; and*

25 6. Includes such other features and information as the Board  
26 may deem advisable.

27 **Sec. 17.** NRS 450B.520 is hereby amended to read as follows:

28 450B.520 Except as otherwise provided in NRS 450B.525:

29 1. A qualified patient may apply to the health authority for a  
30 do-not-resuscitate identification by submitting an application on a  
31 form provided by the health authority. To obtain a do-not-resuscitate  
32 identification, the patient must comply with the requirements  
33 prescribed by the board and sign a form which states that the patient  
34 has informed each member of his or her family within the first  
35 degree of consanguinity or affinity, whose whereabouts are known  
36 to the patient, or if no such members are living, the patient's legal  
37 guardian, if any, or if he or she has no such members living and has  
38 no legal guardian, his or her caretaker, if any, of the patient's  
39 decision to apply for an identification.

40 2. An application must include, without limitation:

41 (a) Certification by the patient's attending physician that the  
42 patient suffers from a terminal condition;

43 (b) Certification by the patient's attending physician that the  
44 patient is capable of making an informed decision or, when the



1 patient was capable of making an informed decision, that the  
2 patient:

3 (1) Executed:

4 (I) A written directive that life-resuscitating treatment be  
5 withheld under certain circumstances;

6 (II) A durable power of attorney for health care pursuant  
7 to NRS 162A.700 to 162A.860, inclusive; or

8 (III) A Physician Order for Life-Sustaining Treatment  
9 form pursuant to NRS 449.691 to 449.697, inclusive, if the form  
10 provides that the patient is not to receive life-resuscitating treatment;  
11 or

12 (2) Was issued a do-not-resuscitate order pursuant to  
13 NRS 450B.510;

14 (c) A statement that the patient does not wish that life-  
15 resuscitating treatment be undertaken in the event of a cardiac or  
16 respiratory arrest;

17 (d) The name, signature and telephone number of the patient's  
18 attending physician; and

19 (e) The name and signature of the patient or the agent who is  
20 authorized to make health care decisions on the patient's behalf  
21 pursuant to a durable power of attorney for health care decisions.

22 **3. A form provided by the health authority pursuant to**  
23 **subsection 1 must provide a means by which a patient may**  
24 **designate a caregiver pursuant to section 7 of this act.**

25 **Sec. 18.** NRS 450B.525 is hereby amended to read as follows:

26 450B.525 1. A parent or legal guardian of a minor may apply  
27 to the health authority for a do-not-resuscitate identification on  
28 behalf of the minor if the minor has been:

29 (a) Determined by his or her attending physician to be in a  
30 terminal condition; and

31 (b) Issued a do-not-resuscitate order pursuant to NRS 450B.510.

32 2. To obtain such a do-not-resuscitate identification, the parent  
33 or legal guardian must:

34 (a) Submit an application on a form provided by the health  
35 authority; and

36 (b) Comply with the requirements prescribed by the board.

37 3. An application submitted pursuant to subsection 2 must  
38 include, without limitation:

39 (a) Certification by the minor's attending physician that the  
40 minor:

41 (1) Suffers from a terminal condition; and

42 (2) Has executed a Physician Order for Life-Sustaining  
43 Treatment form pursuant to NRS 449.691 to 449.697, inclusive, if  
44 the form provides that the minor is not to receive life-resuscitating



1 treatment or has been issued a do-not-resuscitate order pursuant to  
2 NRS 450B.510;

3 (b) A statement that the parent or legal guardian of the minor  
4 does not wish that life-resuscitating treatment be undertaken in the  
5 event of a cardiac or respiratory arrest;

6 (c) The name of the minor;

7 (d) The name, signature and telephone number of the minor's  
8 attending physician; and

9 (e) The name, signature and telephone number of the minor's  
10 parent or legal guardian.

11 4. The parent or legal guardian of the minor may revoke the  
12 authorization to withhold life-resuscitating treatment by removing or  
13 destroying or requesting the removal or destruction of the  
14 identification or otherwise indicating to a person that he or she  
15 wishes to have the identification removed or destroyed.

16 5. If, in the opinion of the attending physician, the minor is of  
17 sufficient maturity to understand the nature and effect of  
18 withholding life-resuscitating treatment:

19 (a) The do-not-resuscitate identification obtained pursuant to  
20 this section is not effective without the assent of the minor.

21 (b) The minor may revoke the authorization to withhold life-  
22 resuscitating treatment by removing or destroying or requesting the  
23 removal or destruction of the identification or otherwise indicating  
24 to a person that the minor wishes to have the identification removed  
25 or destroyed.

26 ***6. A form provided by the health authority pursuant to***  
27 ***subsection 2 must provide a means by which a parent or legal***  
28 ***guardian of a minor may designate a caregiver for the minor***  
29 ***pursuant to section 7 of this act.***

30 **Sec. 19.** NRS 162A.790 is hereby amended to read as follows:  
31 162A.790 1. Any adult person may execute a power of  
32 attorney enabling the agent named in the power of attorney to make  
33 decisions concerning health care for the principal if that principal  
34 becomes incapable of giving informed consent concerning such  
35 decisions.

36 2. A power of attorney for health care must be signed by the  
37 principal. The principal's signature on the power of attorney for  
38 health care must be:

39 (a) Acknowledged before a notary public; or

40 (b) Witnessed by two adult witnesses who know the principal  
41 personally.

42 3. Neither of the witnesses to a principal's signature may be:

43 (a) A provider of health care;

44 (b) An employee of a provider of health care;

45 (c) An operator of a health care facility;



1 (d) An employee of a health care facility; or

2 (e) The agent.

3 4. At least one of the witnesses to a principal's signature must  
4 be a person who is:

5 (a) Not related to the principal by blood, marriage or adoption;  
6 and

7 (b) To the best of the witnesses' knowledge, not entitled to any  
8 part of the estate of the principal upon the death of the principal.

9 5. If the principal resides in a hospital, residential facility for  
10 groups, facility for skilled nursing or home for individual residential  
11 care, at the time of the execution of the power of attorney, a  
12 certification of competency of the principal from a physician,  
13 psychologist or psychiatrist must be attached to the power of  
14 attorney.

15 6. A power of attorney executed in a jurisdiction outside of this  
16 State is valid in this State if, when the power of attorney was  
17 executed, the execution complied with the laws of that jurisdiction  
18 or the requirements for a military power of attorney pursuant to 10  
19 U.S.C. § 1044b.

20 7. *A person who executes a power of attorney may designate*  
21 *a caregiver pursuant to section 7 of this act in the same document.*

22 8. As used in this section:

23 (a) "Facility for skilled nursing" has the meaning ascribed to it  
24 in NRS 449.0039.

25 (b) "Home for individual residential care" has the meaning  
26 ascribed to it in NRS 449.0105.

27 (c) "Hospital" has the meaning ascribed to it in NRS 449.012.

28 (d) "Residential facility for groups" has the meaning ascribed to  
29 it in NRS 449.017.

30 **Sec. 20.** This act becomes effective:

31 1. Upon passage and approval for the purposes of adopting  
32 regulations and performing any preliminary administrative tasks that  
33 are necessary to carry out the provisions of this act; and

34 2. On January 1, 2016, for all other purposes.

