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## Health and Welfare; Rights of Patients

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# Health and Welfare

## Health and Welfare; rights of patients

NEV. REV. STAT. §§427A.—, 449.— (new); 427A.020 (amended).  
AB 277 (Dini); 1983 STAT. Ch 339  
SB 273 (Robinson); 1983 STAT. Ch 411

Chapters 339 and 411 address issues affecting patients in health and care facilities.<sup>1</sup> Specifically, these issues include the rights of patients receiving care in these facilities<sup>2</sup> and the appointment of advocates<sup>3</sup> for residents in long-term care facilities.<sup>4</sup>

### *Patient's Rights in Health Care Facilities*

Chapter 339 introduces new provisions regarding the rights of patients in health and care facilities.<sup>5</sup> Under Chapter 339, every health and care facility must either (1) provide the necessary services to properly treat a particular patient or (2) arrange to transfer the patient to another facility that can provide the necessary care.<sup>6</sup> A transfer may be completed only if the patient has received an adequate explanation of the need for a transfer and available alternatives to a transfer.<sup>7</sup> An immediate transfer can be made, however, if the patient's condition necessitates treatment at a facility that is able to provide a higher level of care and if the patient is unable to understand the reason for the transfer.<sup>8</sup>

Furthermore, Chapter 339 requires that each patient be informed<sup>9</sup> of

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1. NEV. REV. STAT. §449.007 ("health and care facility" includes alcohol or drug treatment centers, ambulatory surgical centers, group care facilities, home health agencies, intermediate care facilities, skilled nursing facilities, hospices, and hospitals). See generally 1983 Nev. Stat. c. 339 §§1-8, at 820; *id.* c. 411, §§1-8, at 1026.

2. See 1983 Nev. Stat. c. 339, §§2-5, at 820-22.

3. *Id.* c. 411, §7(2), at 1027-28 (definition of advocate).

4. *Id.* c. 411, §7(8), at 1027 "Facility for long term care" includes group care facilities, skilled nursing facilities, intermediate care facilities, and family homes whether or not licensed by the state or local government agency, in which room, board, laundry, and continuous protection and oversight are provided for compensation to not more than three adult persons. The residents of the family home must, because of age or disability, be incapable of independent living while still not requiring the services of a professional or practical nurse, and the residents must not be related to the person or persons maintaining the home or establishment. *Id.*

5. See generally *id.* c. 339, §§1-5, at 820-22.

6. *Id.* c. 339, §2(1), at 820.

7. *Id.* c. 339, §2(2), at 820.

8. *Id.*

9. *Id.* c. 339, §5, at 822.

the right to (1) receive considerate, respectful<sup>10</sup> and continuous care,<sup>11</sup> (2) have any reasonable request for services satisfied by the facility,<sup>12</sup> (3) refuse treatment to the extent permitted by law and be informed of the consequences of that refusal,<sup>13</sup> (4) receive information concerning any other health and care or educational facility where the patient is being treated,<sup>14</sup> (5) be advised if the facility proposes to perform experiments on patients that affect the patient's care and treatment,<sup>15</sup> (6) refuse to participate in medical experiments conducted at the facility,<sup>16</sup> (7) examine and receive an explanation of the bill for the patient's care, regardless of whether the patient is responsible for the payment of the bill,<sup>17</sup> (8) know the facility regulations concerning the patient's conduct,<sup>18</sup> (9) receive the name of the person responsible for coordinating the patient's care,<sup>19</sup> and (10) obtain information concerning the professional qualifications or associations of persons treating the patient.<sup>20</sup>

Under Chapter 339, the patient also has the right to receive a complete and current description of the diagnosis, treatment, plan and prognosis from the treating physician, and this information must be in terms the patient can understand.<sup>21</sup> If, however, providing this information to the patient is not medically advisable, the physician may instead convey the information to an appropriate person responsible for the patient,<sup>22</sup> and that person must be informed that the physician will not disclose the information to the patient.<sup>23</sup>

The patient has the right to receive information necessary to give informed consent for a procedure or treatment.<sup>24</sup> Except where an emergency exists, this information must include (1) a description of the medical risks involved,<sup>25</sup> (2) information on alternatives to the treatment or procedure, if requested,<sup>26</sup> and (3) the name of the person responsible for the treatment or procedure.<sup>27</sup> The patient must also be

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10. *Id.* c. 339, §4(1), at 821.

11. *Id.* c. 339, §4(6), at 821.

12. *Id.* c. 339, §4(5), at 821 (reasonable requests must be satisfied considering the facility's ability to do so).

13. *Id.* c. 339, §4(2), at 821.

14. *Id.* c. 339, §3(1), at 820 (information that relates to the patient's care).

15. *Id.* c. 339, §3(4), at 821.

16. *Id.* c. 339, §4(3), at 821.

17. *Id.* c. 339, §3(7), at 821.

18. *Id.* c. 339, §3(8), at 821.

19. *Id.* c. 339, §3(3), at 821.

20. *Id.* c. 339, §3(2), at 820.

21. *Id.* c. 339, §3(5), at 821.

22. *Id.* c. 339, §3(5)(a), at 821.

23. *Id.* c. 339, §3(5)(b), at 821.

24. *Id.* c. 339, §3(6), at 821.

25. *Id.* c. 339, §3(6)(a), at 821.

26. *Id.* c. 339, §3(6)(b), at 821.

27. *Id.* c. 339, §3(6)(c), at 821.

informed of the schedule for treatments and the names of the persons available at the facility to provide those treatments.<sup>28</sup> In addition, the physician or an authorized representative of the physician must inform the patient of the patient's need for continuing care.<sup>29</sup>

Finally, Chapter 339 provides the patient with a right to privacy regarding the patient's program of medical care.<sup>30</sup> The patient must consent to the presence of any person not directly involved with the patient's care during an examination, consultation, or treatment.<sup>31</sup> Moreover, all discussions, examinations, treatments, communications, and records concerning the patient's care are confidential.<sup>32</sup>

### *Advocates for Residents of Long Term Care Facilities*

Chapter 411 implements a new program for dealing with the specialized problems and complaints of residents in long term care facilities.<sup>33</sup> Under existing law, the administrator of the Aging Services Division of the Department of Human Resources has the power to appoint necessary personnel to staff the Division.<sup>34</sup> Existing law also authorizes the Aging Services Division to investigate complaints against health and care facilities.<sup>35</sup> Chapter 411 augments this power by providing that the administrator may appoint advocates for residents of long-term care facilities.<sup>36</sup> In addition, Chapter 411 sets forth the powers<sup>37</sup> and duties<sup>38</sup> of these advocates, and defines the procedures<sup>39</sup> that an advocate must follow when investigating a complaint made by or on behalf of a resident.<sup>40</sup>

The duties of an advocate under Chapter 411 include (1) receiving complaints made by or on behalf of the residents,<sup>41</sup> (2) investigating the acts, practices, policies, or procedures of the facility or any government-

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28. *Id.* c. 339, §4(6)(a), at 821.

29. *Id.* c. 339, §4(6)(b), at 821.

30. *See id.* c. 339, §4(4), at 821.

31. *Id.*

32. *Id.*

33. *See generally id.* c. 411, §§1-8, at 1026-28.

34. NEV. REV. STAT. §§427A.020(1) (administrator is the head of the Aging Services Division), 427A.020(3), (5), (Aging Services Division of the Department of Human Resources), 427A.070(1)(c).

35. *See id.* §449.235.

36. *See* 1983 Nev. Stat. c. 411, §2, at 1026. The Aging Services Division may adopt regulations regarding the distribution of a notice that describes the purpose of an advocate and sets forth the procedures for making a complaint to the advocate. *Id.*

37. *Id.* c. 411, §6, at 1027.

38. *See id.* c. 411, §§2, 5, at 1026.

39. *See id.* c. 411, §§3, 4, at 1026.

40. *See id.*

41. *Id.* c. 411, §2(1), at 1026.

tal agency relating to the care provided,<sup>42</sup> (3) reporting the results of each investigation to the administrator,<sup>43</sup> (4) synthesizing the information and complaints to identify problems affecting residents of long term care facilities,<sup>44</sup> and (5) reporting annually to the administrator.<sup>45</sup> In addition, the advocate is required to (1) provide information upon request to all persons regarding the advocate's functions and activities,<sup>46</sup> (2) advise and assist the Governor, legislature, and public and private groups in formulating policies that affect facilities for long term care,<sup>47</sup> and (3) recommend and review policies, legislation, and regulations relating to the residents of long term care facilities.<sup>48</sup>

With the enactment of Chapter 411, an advocate may respond to a complaint made by<sup>49</sup> or on behalf of a resident by investigating any act or policy that may be adversely affecting the health, safety, welfare, or civil rights of a resident.<sup>50</sup> While investigating a complaint, an advocate may enter a facility at any time, with or without prior notice,<sup>51</sup> and may not be denied access to any of the residents of the facility.<sup>52</sup> Residents, however, may deny or terminate visits with the advocate.<sup>53</sup>

Chapter 411 also sets forth procedures for the advocate to follow while investigating a complaint.<sup>54</sup> In conducting an investigation, the advocate may inspect the long term care facility, in addition to the records maintained by the facility.<sup>55</sup> The medical and personal financial records of a resident, however, may not be inspected without the informed consent of the resident or the resident's legal representative.<sup>56</sup> While conducting the investigation, the advocate may interview (1) administrators and employees of the facility,<sup>57</sup> (2) residents of the facility or their legal representatives,<sup>58</sup> and (3) family members of the

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42. *Id.* c. 411, §2(2), at 1026.

43. *Id.*

44. *See id.* c. 411, §2(3), at 1026.

45. *Id.* c. 411, §2(8), at 1026.

46. *Id.* c. 411, §2(7), at 1026.

47. *Id.* c. 411, §2(6), at 1026. This advice and assistance must be given upon request. *Id.*

48. *See id.* c. 411, §2(5), at 1026 (policies, legislation, and regulations both existing and proposed).

49. *Id.* c. 411, §3(3), at 1027. Residents have the right to request a visit with the advocate. *Id.*

50. *Id.* c. 411, §3(1), at 1026.

51. *Id.* c. 411, §3(2), at 1026.

52. *Id.* Upon arrival at the facility, however, the advocate must notify the person in charge and must produce appropriate identification. *Id.*

53. *See id.* c. 411, §3(3), at 1027.

54. *See id.* c. 411, §§3, 4, at 1026.

55. *Id.* c. 411, §4(1), at 1027.

56. *Id.*

57. *Id.* c. 411, §4(2)(a), at 1027 (employees include licensed providers of health care as defined in NEV. REV. STAT. §629.031 who render services at the facility).

58. *Id.* c. 411, §4(2)(b), at 1027.

resident.<sup>59</sup> Furthermore, the advocate may obtain information and assistance from state agencies.<sup>60</sup> When the investigation reveals violations of statutes and regulations, the advocate must refer the results of the investigation to the governmental agencies authorized to enforce the applicable laws and regulations.<sup>61</sup> Finally, the advocate must notify the complainant of the final disposition on the matter.<sup>62</sup>

In summary, Chapter 339 creates rights for patients in health and care facilities,<sup>63</sup> and requires that each patient be informed of these rights upon admission to the facility.<sup>64</sup> In addition, Chapter 411 provides advocates for the residents of long-term care facilities,<sup>65</sup> and sets forth the advocates' duties<sup>66</sup> and the procedures they must follow in investigating a complaint made by or on behalf of a resident.<sup>67</sup>

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59. *Id.*

60. *See id.* c. 411, §4(3), at 1027.

61. *See id.* c. 411, §5(1), at 1027.

62. *Id.* c. 411, §5(2), at 1027.

63. *See generally id.* c. 339, §2, at 820.

64. *Id.* c. 339, §5, at 822.

65. *See generally id.* c. 411, §2, at 1026.

66. *See generally id.*

67. *See generally id.* c. 411, §§3, 4, at 1026.

## Health and Welfare; client abuse

NEV. REV. STAT. §433.554 (amended).  
AB 420 (Jeffrey); 1983 STAT. Ch 390

Existing law makes illegal the abuse of clients<sup>1</sup> of the Department of Human Resources Mental Hygiene and Mental Retardation Division (hereinafter referred to as the Division) by any employee of the Division or by any other person.<sup>2</sup> Chapter 390 expands this client protection by providing that any employee of the Division or other person who has reason to believe that a client has been or is being abused, is guilty of a misdemeanor if the suspected abuse is not reported.<sup>3</sup> For purposes of Chapter 390, abuse means (1) physical or mental injury of a nonaccidental nature, (2) sexual abuse, (3) sexual exploitation, (4) negligent treatment, or (5) maltreatment.<sup>4</sup>

Before the enactment of Chapter 390, the wilful abuse of a client of

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1. NEV. REV. STAT. §433.044 (definition of client).

2. *Id.* §§433.084 (definition of division), 433.554 (amended by 1983 Nev. Stat. c. 390, §1, at 933); *see also id.* §§433.094 (definition of division facility), 433.233 (list of division facilities).

3. *Id.* §433.554(1)(a) (amended by 1983 Nev. Stat. c. 390, §1(1)(a), at 933).

4. *Id.* §433.554(4) (amended by 1983 Nev. Stat. c. 390, §1(4), at 933).