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Health and Welfare; medical care costs

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a license from the chiropractic board of another state.¹¹ Chapter 357 redefines the criteria that a license issued out of state must meet when submitted in lieu of a certificate from the National Board of Chiropractic Examiners.¹²

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11. NEV. REV. STAT. § 634.110 (amended by 1987 Nev. Stat. ch. 357, sec. 2, at ___) (only if the state had equal licensing qualification requirements as Nevada).

12. 1987 Nev. Stat. ch. 357, sec. 2, at ___ (amending NEV. REV. STAT. § 634.110) (only a license from a state where the required qualifications of a licensee are equal to or higher than the National Board of Chiropractic Examiners will be accepted).

Health and Welfare; medical care costs

NEV. REV. STAT. §§ 000.____, 439A.____, 449.____, 450.____ (new);
§§ 428.010, 428.030, 428.060, 428.090, 439A.100, 449.465, 449.490,
450.420, 450.490, 450.500, 450.510, 450.700, 680A.320 (amended).
AB 289 (Arberry); 1987 STAT. Ch 377
AB 615 (Freeman); 1987 STAT. Ch 681

With the enactment of Chapter 377,¹ the legislature's purposes are to promote equal access to quality medical care, to reduce excessive revenues and charges generated by hospitals,² and to insure that a competitive market exists in the medical care business.³

Chapter 377 establishes a legislative committee on health care⁴ with the authority to review and evaluate the quality, effectiveness, and costs of medical care programs.⁵ Specifically, the committee may investigate medical insurance services, hospital procedures, medical malpractice, health education programs, and medical care for indigent persons.⁶ In addition, Chapter 377 provides for the creation of county

1. Chapter 377 amends Title 40 of Nevada Revised Statutes by adding a new chapter thereto. 1987 Nev. Stat. ch. 377, sec. 1, at ___.

2. 1987 Nev. Stat. ch. 377, sec. 12, at ___ (definition of hospital).

3. 1987 Nev. Stat. ch. 377, sec. 17, at ___.

4. *Id.* sec. 18, at ___. The committee must consist of three members of the Senate and three members of the Assembly who have experience with health care matters. No committee member may have a financial interest in, or otherwise direct or control, a health facility in Nevada. *Id.*

5. *Id.* sec. 20, at ___.

6. *Id.* The committee is also charged with examining the effectiveness of legislation

commissions and hospital committees to oversee the quality of care provided by hospitals.⁷ The committees and commissions must represent the interests of patients and insure that the quality of hospital care is not compromised by economic considerations.⁸

Chapter 377 requires every hospital to maintain and to use a uniform list of billed charges⁹ for services or goods provided to inpatients at that hospital.¹⁰ In addition, Chapter 377 requires that the health division of the Department of Human Resources (Department) release a quarterly report to the public, listing every hospital in Nevada and charges for representative services.¹¹

REDUCTION OF CHARGES AND REVENUE

Existing law requires health facilities¹² to file with the Department a balance sheet detailing assets, liabilities, net worth, and a statement of income and expenses.¹³ Chapter 377 extends existing law by requiring that each institution file, with the Department, a proposed operating budget for each fiscal year.¹⁴

Chapter 377 establishes a system to reduce the percentage of income¹⁵ to operating expenses¹⁶ at hospitals.¹⁷ The legislature intends that reductions in revenue be achieved without affecting hospital

regarding medical care costs, conducting investigations and hearings, and recommending appropriate legislation. *Id.* See *id.* sec. 21, at ___ (specifies procedures for investigation and hearings). *Id.* sec. 26, at ___ (definition of indigent).

7. *Id.* sec. 39, at ___ (enacting NEV. REV. STAT. § 449.____). Each county with a population of 100,000 or more must establish a commission with one representative from each hospital. *Id.* Each hospital with more than 200 beds must establish a committee composed of at least 5 physicians on the medical staff who do not have a pecuniary interest in the hospital. *Id.* Commission and committee members must be elected by a vote of the medical staff at each hospital. *Id.*

8. *Id.*

9. *Id.* sec. 4, at ___ (definition of billed charge).

10. *Id.* sec. 23, at ___ (provision does not restrict the ability to contract for a discounted or different rate or manner of payment).

11. *Id.* sec. 34, at ___ (enacting NEV. REV. STAT. § 439A.____). The division must report annually to the legislative committee on health care regarding the effects of legislation on health care costs. *Id.*

12. NEV. REV. STAT. § 439A.015 (definition of health facility).

13. *Id.* § 449.490 1 (a), (b) (amended by 1987 Nev. Stat. ch. 377, sec. 41, at ___).

14. 1987 Nev. Stat. ch. 377, sec. 41, at ___ (amending NEV. REV. STAT. § 449.490 1). An independent certified public accountant must certify the financial reports. *Id.*

15. *Id.* sec. 55, at ___ (definition of income).

16. *Id.* (definitions of operating expenses, percentage of income to operating expenses).

17. *Id.* Each hospital with an income exceeding expenses by more than 7% for the calendar year 1986 is required to reduce billed charges and net revenue per inpatient by specified percentages. See *id.* (definition of net revenue per inpatient admission). Failure to comply with required reductions will result in a penalty charge. *Id.* One-half of the money collected through penalty fines must be used to support the legislative committee on health care and one-half must be deposited in the fund for assistance to indigent persons. *Id.*

service.¹⁸ Any reduction in the number or quality of hospital employees would be contrary to the public interest and would endanger public health.¹⁹ Chapter 377 prohibits hospitals from reducing (1) the wages, hours, or benefits of any employee;²⁰ (2) the number of employees performing any service; or (3) the quantity or quality of service provided, as a means of reducing net revenue.²¹

PROJECT APPROVAL

Existing law requires that certain capital expenditures, additions in the number of beds in a health facility, acquisitions of medical equipment and existing health facilities, and construction of new health facilities, be approved by the director²² before implementation.²³ Chapter 681 amends existing law by increasing the amount of the expenditure that must be reported and specifying capital expenditures that are not included in this requirement.²⁴ In addition, Chapter 681 amends existing law by repealing the requirement for prior approval of changes in the provisions of health care services.²⁵ Chapter 377, however, requires that approval of the health division²⁶ be obtained before a facility adds services for the intensive care of newborn infants, treatment of burns, transplant of organs, performance of open-heart surgery, or creation of a center for the treatment of trauma.²⁷

18. *Id.* sec. 56, at ____.

19. *Id.*

20. *Id.* (except in the case of disciplinary action or at the request of the employee).

21. *Id.* A reduction in quantity is allowed if the reduction corresponds to a reduction in the level of hospital occupancy. *Id.* A reduction in the quality of service includes reducing employee hours and discontinuing a service provided to more than 50 persons a year. *Id.*

22. NEV. REV. STAT. § 439.005 3 (definition of director).

23. *Id.* § 439A.100 2 (amended by 1987 Nev. Stat. ch. 681, sec. 1, at ____).

24. 1987 Nev. Stat. ch. 681, sec. 1, at ____ (amending NEV. REV. STAT. § 439A.100). The following capital expenditures do not require approval: (1) Acquisition of land; (2) construction of a parking facility; (3) maintenance of a health facility; (4) renovation to comply with standards for safety, licensure, certification or accreditation; (5) installation of an energy conservation system or a data processing or communication system; and (6) any other project which the director determines does not relate directly to the provision of a health service. *Id.* The value of medical equipment sought to be acquired that must be approved, other than that primarily to replace existing equipment, is raised from \$400,000 to \$2,000,000. *Id.*

25. *Id.*

26. NEV. REV. STAT. § 439.005 5 (definition of health division).

27. 1987 Nev. Stat. ch. 377, sec. 38, at ____ (enacting NEV. REV. STAT. § 449.____). Application for these services must be approved unless the licensee has inadequate personnel or equipment for the provision of the services. *Id.*

TRANSACTIONS PROHIBITED

Existing law prohibits certain transactions between an insurer and a parent corporation, subsidiary,²⁸ or affiliated person,²⁹ including (1) transactions contrary to the interest of the insurer; (2) deception regarding true operating results or financial condition of the insurer; and (3) unfair charges against or by the insurer for services, facilities, supplies, or reinsurance.³⁰ Chapter 377 extends existing law by prohibiting the insurer from paying for services or products that the health facility has charged less than fair market value for, unless the reduced charge results in reduced premiums.³¹ If a health facility is a parent, subsidiary, or affiliate of an insurer, and the insurer purchases products or services from the health facility, Chapter 377 prohibits the facility from altering the charges to the insurer to reduce or increase profits, or to alter operating results or financial conditions through the charges.³²

Chapter 377 prohibits transactions or agreements between a hospital and an affiliated person,³³ parent corporation, or subsidiary³⁴ that would be unfavorable to the hospital, including substitution of an asset with one of inferior quality and deception as to true operating results or financial condition of the hospital.³⁵ Also prohibited are unfair or excessive charges and payments by the hospital for services, facilities, or supplies not reasonably needed.³⁶

Chapter 377 regulates specified transactions between health facilities and physicians, including placing limitations on rental agreements,³⁷ agreements inducing the referral of patients to health facilities, and charges that may be added to a practitioner's³⁸ bill when the

28. NEV. REV. STAT. § 680A.320 (amended by 1987 Nev. Stat. ch. 377, sec. 54, at ___) (definition of subsidiary).

29. *Id.* (definition of affiliated person).

30. NEV. REV. STAT. § 680A.320 (amended by 1987 Nev. Stat. ch. 377, sec. 54, at ___).

31. 1987 Nev. Stat. ch. 377, sec. 54, at ___ (amending NEV. REV. STAT. § 680A.320). To determine fair market value, consideration must be given to reasonable agreements for the preferential provision of health care. *Id.* An annual certification that the reduced charges have resulted in reduced premiums must be filed with the commission. *Id.*

32. *Id.* A \$5,000 administrative fine may be imposed for each violation. *Id.*

33. 1987 Nev. Stat. ch. 377, sec. 31, at ___ (definition of affiliated person).

34. *Id.* (definition of subsidiary).

35. *Id.*

36. *Id.* A violation of a provision may result in a \$20,000 administrative fine or an injunction. *Id.*

37. See 1987 Nev. Stat. ch. 377, sec. 30, at ___. A rental agreement may not require referral of patients to the hospital, and rent must be comparable to that paid by other physicians in the building. *Id.*

38. NEV. REV. STAT. § 439A.0195 (definition of practitioner).

hospital acts as billing agent.³⁹ Chapter 377 prohibits a practitioner or health facility from referring a patient to a facility in which the referring party has a financial interest, unless the interest is disclosed to the patient.⁴⁰

INDIGENT PATIENTS

Under existing law, a county has the obligation to provide care and support to the poor, indigent, incompetent, and incapacitated citizens residing⁴¹ within the county.⁴² Chapter 377 requires every hospital to provide emergency medical care and to admit patients regardless of their financial status.⁴³ With the enactment of Chapter 377, the legislature recognizes that the refusal of hospitals to treat an indigent patient endangers the health of the patient and places a burden upon certain hospitals that treat many indigent patients.⁴⁴ Chapter 377 requires hospitals in counties with more than one licensed hospital⁴⁵ to provide uncompensated care for indigent inpatients based upon that hospital's net revenue.⁴⁶ After a hospital has met the minimum obligation for uncompensated care, the county may reimburse the hospital for care of indigent patients.⁴⁷ Chapter 377 further

39. 1987 Nev. Stat. ch. 377, sec. 30, at _____. Willful violation of a provision results in a civil penalty of \$5,000 per occurrence or 100% of the value of the illegal transaction, whichever is greater. *Id.*

40. *Id.*

41. NEV. REV. STAT. § 428.020 (definition of residence).

42. *Id.* § 422.234 (state plan for assistance to the medically indigent); *id.* § 428.010 (duty of county to provide aid and relief to indigents); *see also* County of Lander v. B. of Trustees, 81 Nev. 354, 403 P.2d 659 (1965) (county obligation to support the indigent is purely statutory).

43. 1987 Nev. Stat. ch. 377, sec. 24, at _____. A hospital's refusal to provide emergency medical care or the transfer of a patient to another facility because of the patient's financial status is declared unlawful by Chapter 377. *Id.* A hospital or health facility that treats a patient as a result of another hospital's refusal to provide treatment is entitled to recover from that hospital three times the amount of the charges for treatment. *Id.* Transfer of a patient is not prohibited when the patient is covered by an agreement providing for payment at another hospital or when the county paying for indigent care has exhausted funds available. *Id.* Before transfer is permitted, the patient's condition must be stabilized to such a degree that transfer will not result in additional risk to the patient. *Id.*

44. *Id.* sec. 25, at ____.

45. *Id.*

46. *Id.* sec. 27, at _____. Each hospital must provide, without charge, care equal to 0.6 percent of its net revenue for the preceding fiscal year. *Id.* The requirements only apply to hospitals with 100 or more beds. *Id.* sec. 25, at ____; *id.* sec. 15, at _____ (definition of net revenue).

47. *Id.* sec. 27, at _____. *See* NEV. REV. STAT. §§ 428.050, 428.285 (levy of tax ad valorem); *see also* 43 OP. ATT'Y GEN. 102 (1971) (county may provide for care of indigent by tax levy or appropriation to indigent fund). Payments made by the county must be at least 85% of the cost of the medical services provided. NEV. REV. STAT. § 428.030 2 (amended by 1987

provides the Board of County Commissioners with authority to levy an ad valorem tax, with voter approval, upon all taxable property in the county to pay for costs of indigent care.⁴⁸

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Nev. Stat. ch. 377, sec. 51, at ____). If the Board of County Commissioners determines that a hospital is serving a disproportionately large share of indigent patients, the board may pay a higher rate to the hospital for the treatment, pay the hospital for treatment which would otherwise be uncompensated, or both. 1987 Nev. Stat. ch. 377, sec. 28, at _____. If the total amount of care provided to indigent patients is less than the minimum obligation of the hospital, the hospital will be assessed for the difference and the assessment will be used to pay other hospitals in the county for treatment of indigent patients. *Id.* sec. 29, at _____.

48. 1987 Nev. Stat. ch. 377, sec. 42 at ____ (enacting NEV. REV. STAT. § 450.____).

Health and Welfare; power of attorney for health care decisions

NEV. REV. STAT. § 449.____ (new).
AB 467 (Humke); 1987 STAT. Ch 396

Under existing law, any person may execute a declaration directing that if that person becomes terminally ill, comatose or incapable of communicating with the attending physician,¹ life-sustaining procedures² are to be withheld or withdrawn.³ Chapter 396 provides that any adult person may execute a power of attorney⁴ for a disabled principal⁵ enabling the attorney to make decisions concerning health care if the principal becomes incapable of giving informed consent.⁶ The principal cannot name as an attorney in fact the provider of health care,⁷ an operator of a health care facility⁸ or any employees

1. NEV. REV. STAT. § 449.550 (definition of attending physician).

2. *Id.* § 449.570 (definition of life-sustaining procedure).

3. *Id.* § 449.600 (must execute the declaration in the same manner as a will).

4. 1987 Nev. Stat. ch. 396, sec. 2, at ____ (enacting NEV. REV. STAT. § 449.____) (definition of power of attorney).

5. *Id.* (definition of principal).

6. *Id.* sec. 3, at ____ (enacting NEV. REV. STAT. § 449.____).

7. *See id.* sec. 2, at ____ (enacting NEV. REV. STAT. § 449.____) (definition of provider of health care).

8. *Id.* (definition of health care facility).