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# **PERSONAL USE OF ELECTRONIC COMMUNICATION DEVICES**

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**Policy Manual, Chapter 1400**

Interim Publication Pending Workshop

**AGING AND DISABILITY SERVICES  
DIVISION**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
AGING AND DISABILITY SERVICES DIVISION  
ADMINISTRATIVE POLICY MANUAL**

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## **1401 INTRODUCTION**

Aging and Disability Services Division (ADSD) is committed to protecting the rights of individuals residing in covered facilities and living communities to install and use electronic communication devices in their personal living quarters (herein after referred to as personal living spaces, which refers specifically to the bedroom).

ADSD will ensure that individuals living in a covered facility and living community (as defined in this policy), within ADSD authority, are afforded the full access to these rights without interference, discrimination, or retaliation. ([NRS 449A](#) and [NRS 435](#)).

### **1401.1 GENERAL PROVISIONS**

It is the policy of ADSD to uphold the following principles:

- Support requests for device installation and use, consistent with safety and privacy practices;
- Prohibit any obstruction, retaliation, or discrimination by facility staff or service providers;
- Enforce protections against tampering or unauthorized access to communication devices; and
- Advocate for individuals in covered facilities to ensure their autonomy and access to communication technologies.

## **1402 SCOPE**

This policy applies to the ADSD contracted community providers as outlined in [Section 1440](#) of this manual and ADSD programs as follows:

- **Adult Protective Services (APS):** Investigates reports of abuse, neglect, exploitation, isolation, or abandonment of vulnerable adults (18-59) and persons 60 years or older.
- **Developmental Services (DS):** Provides programs and services (by ADSD staff and contracted community providers) for individuals with intellectual and developmental disabilities to remain in community-based settings and achieve maximum independence and self-direction.
- **Intermediate Care Facility (ICF):** Provides services (by ADSD and contracted temporary staffing) to individuals diagnosed with an intellectual or developmental disability and in need of ongoing evaluation, planning, 24-hour supervision, coordination, and integration of health and habilitative services in a facility-based residential setting to help the individual gain skills to their greatest ability.
- **Long Term Care Ombudsman Program (LTCOP):** Investigates complaints on behalf of residents who reside in long term care facilities including homes for

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individual care, residential facilities for groups and nursing homes. In addition, the LTCOP provides advocacy and education to residents, families, facility staff and long term care professionals.

- **Office of Community Living (OCL):** Provides programs and services (by ADSD staff and contracted community providers) to older adults and people with disabilities to remain in community-based settings of their choice.

## **1402.1 SETTINGS**

ADSD provides services through variety of programs that support individuals residing in covered facilities or living community settings ([NRS 449A](#) and [NRS 435](#)). These settings fall within the scope of this policy.

### **1402.1.1 COVERED FACILITY**

The term “covered facility” refers to any of the following:

- A facility for intermediate care;
- A facility for skilled nursing;
- A home for individual residential care;
- A unit for the provision of long-term care in a hospital;
- A residential facility for groups; or
- A unit in a senior living community for the provision of assisted living services or a senior living community that provides only assisted living services.

### **1402.2.1 LIVING COMMUNITY**

The term living community (for persons with disabilities) refers to any of the following:

- A provider-operated residential supported living arrangement that is owned, operated, or otherwise controlled by a provider of a supported living arrangement ([NRS 435.007](#));
- Any other housing arrangement that provides assistance, food, shelter, or limited supervision to persons with intellectual disabilities or physical disabilities for compensation and is not a covered facility ([manual section 1410.1.1](#));

## **1410 ELECTRONIC COMMUNICATION DEVICES IN COVERED FACILITIES**

ADSD programs and community providers have a responsibility to ensure individuals residing in covered facilities have full access to their rights regarding electronic communication devices in their personal living space in covered facilities.

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## **1410.1            INTERMEDIATE CARE FACILITY**

The ICF is a covered facility and responsible for following this policy and enacting all provisions to ensure (not all inclusive):

- Persons served and their guardians are aware of their rights to install and use electronic communication devices in their personal living space (bedroom);
- Support persons served in submitting a Request for Electronic Device Form (GA-ECD-01) for device installation and include relevant information in the person-centered service plan.
- Dedicated staff are assigned to review the requests for timely and consistent responses.
- Requests are made and granted only by individuals authorized to make such requests (resident, guardian granted powers to make these decisions as authorized under the existing guardianship, guardian that has petitioned for and been granted such authority, or when delegated this specific authority as the power of attorney to make decisions regarding health care).
- Work with the person's served roommate or authorized representative to complete the Roommate Consent to Electronic Device form (GA-ECD-02). The Roommate Consent to Electronic Device form must be obtained prior to approval of the resident's request.
- Notices are posted in conspicuous spaces at the entrance to the individual's bedroom before electronic devices are activated.
- The cost, device specification and installation, maintenance, and removal of electronic devices are adhered to in accordance with this policy.
- ICF staff do not obstruct, tamper with or destroy the electronic communication device or any recording made by the electronic communication device. ICF staff are not permitted to turn the device on or off.
- ICF staff cannot refuse to provide services or refuse to enter an individual's room when an electronic communication device is in use.
- Resident rights and rights to privacy are upheld. This includes fixed positioning of electronic devices to avoid recording of changing, bathing, and toileting.
- ICF staff must adhere to the custody of records provisions.
- Support person's served with submitting the Withdrawal of Consent for Electronic Devices form (GA-ECD-03) any time a person's served or their authorized representative wishes to have the electronic device removed from their room.

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**1410.2                    OFFICE OF COMMUNITY LIVING ADSD STAFF**

The Office of Community Living (OCL) intake staff and case managers conduct visits to covered facilities.

OCL staff are responsible for following this policy and will (not all inclusive):

- Ensure individuals and their guardians are aware of their rights to install and use an electronic communication device in their personal living space.
- Assist individuals in submitting requests for device installation and include relevant information in the individual's person-centered service plan (PCSP).
- Ensure that they do not obstruct, tamper with or destroy the electronic communication device or any recording made by the electronic communication device. Direct service staff are prohibited from turning the device on or off during a visit.
- Ensure that they do not view or listen to any images or sounds displayed, broadcasted, or recorded by the device.
- Ensure services are provided to the individual. Staff must not refuse services to individuals when an electronic communication device is in use.
- Make reports to Adult Protective Services (APS), the Long-Term Care Ombudsman Program (LTCOP), the Bureau of Healthcare Quality and Compliance (HCQC), Nevada Medicaid and relevant licensing boards, as appropriate.

**1420                    ELECTRONIC COMMUNICATION DEVICES IN LIVING COMMUNITIES**

ADSD programs and community providers have a responsibility to ensure individuals residing in living communities have full access to their rights regarding electronic communication devices in their bedroom.

**1420.1                    DEVELOPMENTAL SERVICES SERVICE COORDINATORS**

Developmental Services staff are responsible for following this policy and will (not all inclusive):

- Inform individuals and their guardians of their rights to install and use electronic communication devices in the resident's bedroom;
- Support individuals in submitting requests for device installation and include relevant information in the person-centered plan;

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- Ensure that they do not obstruct, tamper with or destroy the electronic communication device or any recording made by the electronic communication device. Direct service staff are prohibited from turning the devices on or off during a visit.
- Ensure that they do not view or listen to any images or sounds displayed, broadcasted or recorded by the device.
- Ensure services are provided to the individual. Staff must not refuse services to individuals when an electronic communication device is in use.
- Make reports to APS, LTCOP, HCQC, DS Quality Assurance, Nevada Medicaid and relevant licensing boards, as appropriate.

## **1430 ADSD INVESTIGATION RESPONSIBILITIES**

ADSD offers a variety of programs that conduct investigations and quality reviews. These programs are responsible for ensuring compliance with federal and state laws as well as upholding the rights of residents.

### **1430.1 ADULT PROTECTIVE SERVICES**

This policy applies to all APS investigations involving individuals residing in facilities where electronic communication devices are installed under the provisions of [NRS 449A](#) and [NRS 435](#).

APS recognizes the importance of electronic recordings in enhancing transparency and accountability in care settings. While respecting an individual's rights and privacy, APS may request access to recordings when necessary to support investigations into abuse, neglect, exploitation, or other concerns.

APS Investigators are responsible for initiating requests, documenting consent, and ensuring compliance with privacy standards.

#### **1430.1.1 REQUESTING RECORDS**

APS may formally request access to recordings from electronic communication devices installed in an individual's personal living space if:

- There is reasonable suspicion of abuse, neglect, or exploitation.
- The individual or their legal representative consents to the release of the footage.
- The footage is relevant to the scope of the investigation.
- Records must be requested from the individual or their guardian citing the specific timeframe and nature of the incident under review.

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- APS must ensure that any footage obtained is handled in compliance with confidentiality and evidence preservation standards.

#### **1430.2.1 TURNING DEVICES OFF DURING INTERVIEWS**

APS staff must request that electronic communication devices be turned off during private interviews with individuals when:

- The individual expresses discomfort or declines to be recorded.
- The presence of the device may inhibit open communication or compromise the integrity of the interview.
- The interview involves sensitive or protected health information.
- APS staff should document the request and the individual's preferences in the case file.
- If the device cannot be turned off due to technical or policy limitations, APS must consider relocating the interview or using alternative methods to ensure privacy.

#### **1430.2 LONG TERM CARE OMBUDSMAN PROGRAM**

This policy applies to all LTCOP routine visits and complaints involving residents of facilities where electronic communication devices are installed under the provisions of [NRS 449A](#) and [NRS 435](#).

LTCOP may request electronic recordings when necessary, as part of a complaint investigation or routine visit. LTCOP are responsible for initiating requests, documenting consent, and ensuring compliance with privacy standards.

#### **1430.1.2 REQUESTING RECORDS**

The LTCOP may formally request access to recordings from electronic communication devices installed in a resident's living area if:

- The footage is relevant to the scope of the complaint received by LTCOP.
- The resident or their legal representative consents to the release of the footage.
- LTCOP staff must ensure that any footage obtained is handled in compliance with confidentiality and evidence preservation standards.

#### **1430.2.2 TURNING DEVICES OFF DURING INTERVIEWS**

LTCOP staff must request that electronic communication devices be turned off during private client interviews when:

- The resident expresses discomfort or declines to be recorded.

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- The presence of the device may inhibit open communication or compromise the integrity of the interview.
- The interview involves sensitive or protected health information.
- If the device cannot be turned off due to technical or policy limitations, LTCOP must consider relocating the interview or using alternative methods to ensure privacy.

**1430.3 ADVOCACY RIGHTS ATTORNEY**

The Advocacy Rights Attorney for the Office of the Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Developmental Disability serves as the hearing officer for complaints regarding property damage or loss against certain facilities that provide care for older persons. This includes oversight of Hearing procedures as outlined in Attorney and Legal Policy Manual.

**1430.4 DISABILITY SERVICES QUALITY ASSURANCE INVESTIGATIONS**

The Developmental Services Quality Assurance (DSQA) unit is responsible for ensuring programs, staff and providers comply with all federal regulations, state laws, department policies, and program-specific procedures. In addition, the unit oversees provider certification, offers technical assistance, and conducts facilities training to promote consistent standards of practice.

DSQA will also have oversight responsibilities for community living providers and will be required to follow quality assurance practices as outlined in the Developmental Services, Regional Center Policy Manual.

**1440 COMMUNITY PROVIDERS**

ADSD contracted community providers that fall under applicable covered facilities or living communities are responsible for developing and maintaining policies and procedures for electronic devices compliant with state law, federal regulations, and this policy. The provider policy must ensure (not all inclusive):

- Residents/guardians are informed of their rights to install electronic communication devices in their personal living space.
- Requests are made in writing.
- Dedicated staff are assigned to review the requests for timely and consistent responses.
- Requests are made and granted only by individuals authorized to make such requests (resident, guardian granted powers to make these decisions as authorized under the existing guardianship, guardian that has petitioned for and

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been granted such authority, or when delegated this specific authority as the power of attorney to make decisions regarding health care).

- Written Informed Consent is obtained before electronic devices are installed, permitting withdrawal of consent upon request.
- Notices are posted in conspicuous spaces at the entrance to the resident's room before electronic devices are activated.
- The cost, device specification and installation, maintenance, and removal of electronic devices are clearly outlined.
- Staff do not obstruct, tamper with or destroy the electronic communication device or any recording made by the electronic communication device to include penalties for any violations.
- Resident rights and rights to privacy are upheld. This includes fixed positioning of electronic devices to avoid recording of changing, bathing, and toileting.
- Custody of records is clearly outlined.
- Compliance with all investigations by agencies with investigation authority (e.g., HCQC, APS, LTCOP, Law Enforcement, etc.).

## **1450 ELECTRONIC COMMUNICATION DEVICE**

Electronic communication devices can be any electronic communication device that records video, audio, or both video and audio. For the purpose of this policy and in accordance with state law, electronic communication devices in a resident's personal living space must:

- Be chosen by the resident/resident representative.
- Be capable of being temporarily disabled or turned on and off.
- Be installed in a fixed view of the residents private room, that avoids capturing images of activities such as bathing, dressing, and toileting.

## **1451 RESIDENTS RIGHT TO ELECTRONIC COMMUNICATION DEVICES**

Residents of covered facilities/living communities have the right to request an electronic communication device installed in their personal living space. This includes the right to:

- Waive the residents right to privacy in connection with the use of the electronic communication device.

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- To be free from retaliation or refusal of services due to the use of the electronic communication device.

## **1452 ELECTRONIC COMMUNICATION DEVICE REQUESTS**

Residents of covered facilities and living communities, or their representative, may request an electronic communication device be installed in their personal living space. The covered facility/living community can establish a standard form for the request, or a resident can submit a request in writing.

A request for an electronic communication device must include the following:

- The type, function and expected use of the electronic communication device;
- The name and contact information of any person, other than resident or their representative, that is permitted to view or listen to recordings;
- A waiver for resident's right to privacy related to the device; and
- A release for the covered facility and any employee of the facility from any administrative, civil or criminal liability for a violation of the resident's right to privacy in relation to the device.

A resident's admission or discharge from a covered facility/living community cannot be denied due to the request for an electronic communication device. A covered facility/living community must not discriminate or retaliate against the residents due to their request.

## **1453 INFORMED CONSENT**

When the resident requesting an electronic communication device has a roommate, the resident must have the roommate or the roommate's representative provide written consent for the installation and use of the device in the shared living space.

The resident's roommate or their representative must also provide:

- A waiver for roommate's right to privacy related to the device; and
- A release for the covered facility and any employee of the facility from any administrative, civil or criminal liability for a violation of the resident's right to privacy in relation to the device.

In instances a resident's roommate or representative decline to provide consent for the installation of an electronic communication device, the covered facility/living community must attempt to accommodate the resident or roommate. Reasonable attempts to make may include a room change for the resident or their roommate, with their consent.

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## **1454 WITHDRAWAL OF CONSENT**

A resident of a covered facility/living community or their roommate may withdraw consent for an electronic communication device in their room at any time regardless of whether the consent had been approved or the device had been installed.

To withdraw consent for the electronic communication device, the person withdrawing their consent must provide a written revocation to the covered facility/living community.

Within 24 hours of receiving a written revocation, the covered facility/living community must facilitate the removal of the electronic communication device from the resident's room, as needed.

The facility must notify:

- The resident or representative who originally requested the device;
- Any roommates or legal representatives; and
- Relevant staff.

## **1455 NOTICES**

When a resident has an approved electronic communication device installed in their personal living space, facility staff must post a clearly visible notice at the entrance of the resident's room. The notice must state the residents' personal living space has an electronic communication device in use.

The notice must be:

- Printed in large, legible font meeting 508 compliant fonts for signage
- Posted at eye level; and
- Maintained in good condition and replaced if damaged or removed.

## **1456 INSTALLATION AND COSTS**

The resident or representative requesting the electronic communication device is responsible for choosing and purchasing the electronic communication device. The resident or representative requesting the installation of the electronic communication device is responsible for all associated costs, including but not limited to:

- Purchase of the electronic communication device;
- Installation of the electronic communication device;
- Wi-Fi internet to operate the electronic communication device;
- Removal of the electronic communication device, including repairs needed due to installation and removal;

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- Costs incurred after the resident is discharged from the covered facility; and
- Any additional costs associated with the electronic communication device.

## **1460 CUSTODY OF RECORDS AND DATA**

The resident that owns the electronic communication device or their representative can review the video and audio recordings from the electronic communication device.

The following persons or entities are permitted to review video and audio records as well as turn the video and audio recordings off:

- Law Enforcement;
- Staff conducting investigations from ADSD or HCQC;
- The State Long-Term Care Ombudsman;
- The attorney of the resident or their roommate;
- The resident or their representative; and/or
- Any person(s) the resident or resident's representative permits.

### **1460.1 ACCESS TO RECORDS**

Persons permitted to review electronic communication device video and/or audio records must request these from the resident or resident's representative.

## **1461 STAFF ACCESS TO RESIDENT ROOMS**

Staff of covered facilities may not refuse to enter a resident's room due to the presence or use of an electronic communication device.

## **1462 COMPLIANCE AND PENALTIES**

ADSD staff, covered facilities, and living communities have a responsibility to be compliant with state law, licensing boards, and certification bodies regarding electronic communication devices in residents private living quarters. This includes making complaints or reporting suspected violations. Individuals found in violation are subject to civil penalties and may be found guilty of a misdemeanor ([NRS 449A](#) and [NRS 435](#)).

In addition, the following actions may be taken by ADSD for non-compliance:

- **ADSD Staff:** Subject to disciplinary action up to and including termination.
- **Contracted Community Providers:** Corrective action, impact on provider certification, and or termination of the contract.

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- **Licensed Providers:** Will be reported to HCQC, applicable licensure boards, and Medicaid as applicable for corrective action.

## 1462.1 PROHIBITED ACTIVITIES

ADSD staff, covered facilities, and living communities are prohibited from the following activities:

- Staff of the covered facilities and living communities must not discriminate against residents due to requests for electronic communication devices.
- Residents who request to use electronic communication devices in their personal living spaces must not be denied admission, evicted, or refused contract renewal as a result of such a request.
- An individual must not use an electronic communication device to direct or influence a resident's behavior, or violate any rights afforded to the resident under [42 CFR 441.301\(c\)\(4\)](#).
- Recordings obtained through electronic communication devices must not be posted, shared, or distributed on social media platforms or any other internet-based sites or services under any circumstances. ([NRS 435](#)).

## 1470 RESERVED

## 1480 RESERVED

## 1498 AUTHORITY

[NRS 449](#)

[NRS 449A](#)

[NRS 435](#)

[NRS 200.5091- 200.50995](#)

[NRS 427A.125- 427A.165](#)

[42 CFR 441.301\(c\)\(4\)](#)

## 1499 ACRONYMS & DEFINITIONS

**Covered Facility:** Term referring to any of the following:

- A facility for intermediate care;
- A facility for skilled nursing;

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- A home for individual residential care;
- A unit for the provision of long-term care in a hospital;
- A residential facility for groups; or
- A unit in a senior living community for the provision of assisted living services or a senior living community that provides only assisted living services.

**Facility for Intermediate Care:** An establishment operated and maintained to provide 24-hour personal and medical supervision for a person who does not have illness, disease, injury or other condition that would require the degree of care and treatment which a hospital or facility for skilled nursing is designed to provide. ([NRS 449.0038](#))

**Home for Individual Residential Care:** A home in which a natural person furnishes food, shelter, assistance and limited supervision, for compensation, to not more than two persons with intellectual disabilities or with physical disabilities or who are aged or infirm, unless the persons receiving those services are related within the third degree of consanguinity or affinity to the person providing those services. This term does not include a recovery house for persons recovering from alcohol or other substance use disorders or a home in which community-based living arrangement services or supported living arrangement services are provided by a provider of such services during any period in which the provider is engaged in providing the services. ([NRS 449.0105](#))

**Living Arrangement Services:** Supported living arrangement services or community-based living arrangement services that include:

- Intensive services and overnight supervision of recipients who require training concerning behavioral skills, self-care and management of medications; or
- Services in the home for recipients with chronic medical conditions and severe mental illness who require habilitation or rehabilitation services, or both.

**Living Community for Persons with Disabilities:** Term referring to a provider-operated living arrangement and any other housing arrangement that provides assistance, food, shelter or limited supervision to persons with intellectual disabilities or physical disabilities for compensation and is not a covered facility.

**Living Quarters:** The room in which a patient resides. ([NRS 449A.176](#))

**Provider-operated residential supported living arrangement:** A residential setting that is owned, operated or otherwise controlled by a provider of supported living arrangement services.

**Resident:** Person who resides in a living community for persons with disabilities.

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**Senior Living Community:** A home for individual residential care, residential facility for groups, facility for intermediate care, facility for skilled nursing, assisted living facility or retirement home or village that primarily provides services to persons who are aged or any other group housing arrangement that provides assistance, food, shelter, or limited supervision to persons who are aged. ([NRS 449.0179](#))

**Supported Living Arrangement Services:** Flexible individualized services provided in the home, for compensation, to a person with an intellectual disability or a person with a developmental disability and is served by the Division that are designed and coordinated to assist the person in maximizing the person's independence, including, without limitation, training and habilitation services. ([NRS 435.3315](#))

Interim Publication Pending Workgroup Review