

Should the patient refuse to surrender the materials, there are two courses open to hospital personnel. In the case of illegal drugs and firearms, the hospital staff should report to the police authorities and leave it to the police to obtain the proper warrants and conduct the proper searches. In the case of medications and liquor, which may be legal in themselves, but which are still prohibited under hospital regulations, the hospital staff may proceed under subsection 4 of [NRS 450.390](#):

The governing head may exclude from the use of the hospital any and all inhabitants and persons who shall willfully violate such rules and regulations.

The insistence on retaining prohibited materials can only be a willful violation of hospital regulations and patients may, therefore, be excluded. Of course, the staff must, in each case, decide whether the patient's medical condition is such as to justify his exclusion from the hospital. This, however, is a decision which can be decided only by the staff in each particular case.

This is particularly true in the case of patients being admitted to the emergency ward. Generally, they may be in such a condition as to preclude exclusion from the hospital. In cases where the possession of illegal materials is suspected, once again it is the duty of the law enforcement officials to determine if a warrant should issue, and, if so, to conduct the proper search. In the case of legal, but prohibited materials, the patient's condition may require an exception to the exclusion rule.

#### CONCLUSIONS

This office concludes that, in pursuance of valid hospital regulations, the staff of county supported hospitals:

1. May promulgate rules and regulations governing procedures to be observed by hospital staff in determining whether unknown medication, illegal drugs, liquor, firearms, or explosives are in the possession of prospective admittees or patients consistent with the safeguards set forth herein.
2. May ask all patients, at the time of their admittance, whether they have in their possession material prohibited by the hospital.
3. May not search patients' personal possessions under any conditions except by the patients' consent or in cases where the patient or others are under a direct and immediate threat to the health and safety of others.
4. May request patients to surrender all prohibited materials. In the case of refusal, the staff may request police intervention or exclude the patient from the hospital, depending on whether the prohibited materials are illegal or not. Exclusion is discretionary, depending on the condition of the patient.

Respectfully submitted,

ROBERT LIST, *Attorney General*

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**77 Assistance to Disabled Voters—The Secretary of State may prescribe regulations permitting election officials to assist physically disabled voters to mark their ballots or operate voting machines, in cases where the disability prevents the voter from doing so himself.**

CARSON CITY, April 25, 1972

THE HONORABLE JOHN KOONTZ, *Secretary of State*, State Capitol Building, Carson City, Nevada 89701

DEAR SECRETARY KOONTZ:

You have requested the opinion of this office on the following question:

QUESTION

Does the repeal of [NRS 293.290](#) prohibit assistance by another person to a disabled or handicapped voter in marking his ballot or operating a voting machine?

ANALYSIS

[NRS 293.290](#), prior to its repeal by the 1971 Legislature, authorized the county clerk to provide assistance at the polls, if by reason of a physical disability the voter was unable to mark a ballot or operate a voting machine.

Article 2, Section 1 of the Nevada Constitution provides:

All citizens of the United States (not laboring under the disabilities named in this constitution) of the age of eighteen years and upwards, who shall have actually, and not constructively resided in the state six months, and in the district or county thirty days next preceding any election, shall be entitled to vote for all officers that now or hereafter may be elected by the people, and upon all questions submitted to the electors at such election. \* \* \*

Refusal to permit assistance to a physically disabled person, when by reason of that disability he is unable to mark his ballot or operate a voting machine, would disenfranchise the voter. Only those convicted of treason or a felony, or idiots or insane persons are disqualified from voting.

The repeal of [NRS 293.290](#) cannot result in the disenfranchisement of physically disabled voters, otherwise qualified to vote, as the Nevada Constitution guarantees them the right of suffrage.

[NRS 293.247](#) provides that:

The secretary of state shall promulgate rules and regulations not inconsistent with the election laws of this state, for the conduct of primary and general elections in all counties.

The Secretary of State, therefore, to meet the provisions of the Nevada Constitution in regard to the right suffrage, may provide by regulation that election officials assist physically disabled voters to mark their ballots or operate voting machines, in cases where physical disabilities prevent such voters from doing so themselves.

CONCLUSION

Repeal of [NRS 293.290](#) does not prohibit assistance at the polls to handicapped voters and the Secretary of state may prescribe regulations permitting election officials to assist physically disabled voters to mark their ballots and operate voting machines, in cases where the disability prevents the voter from doing so himself.

Respectfully submitted,

ROBERT LIST, *Attorney General*

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**78 Election—Registration of Military Personnel—Members of the military service who entered the service from outside the State of Nevada may establish residency for voting purposes in the State of Nevada on the same basis as**