

SENATE BILL NO. 283—SENATORS PAZINA, DONATE; DALY, DONDERO LOOP, FLORES, D. HARRIS, LANGE, NEAL, NGUYEN, OHRENSCHALL AND SCHEIBLE

MARCH 15, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Revises certain provisions relating to health care records. (BDR 54-555)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§§ 1, 3) (NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~for mitted material~~ is material to be omitted.

AN ACT relating to health care; requiring certain persons and entities to furnish health care records electronically under certain circumstances; prohibiting such persons and entities from charging a fee that exceeds a certain amount to furnish health care records electronically if the health care records are maintained electronically; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law requires each custodian of health care records to make health care  
2 records available for inspection by a patient, certain representatives of a patient and  
3 certain government officials. (NRS 629.061) Upon request of such a person,  
4 **section 1** of this bill requires a custodian of health care records to electronically  
5 transmit the health care records to the person or, if the patient has provided written  
6 authorization for records to be furnished to another person or entity, to that person  
7 or entity.

8 Existing law authorizes a custodian of health care records to charge certain fees  
9 for furnishing a copy of health care records. (NRS 629.061) **Section 1** prohibits a  
10 custodian of health care records from charging a fee that exceeds \$15 or other  
11 amounts prescribed by existing law for furnishing a copy of health care records  
12 electronically if the custodian of health care records maintains such health care  
13 records electronically. **Section 2** of this bill makes a conforming change to indicate  
14 the proper placement of **section 1** in the Nevada Revised Statutes.

15 Existing law provides for the payment of compensation to employees who are  
16 injured or disabled as a result of an occupational injury or disease.



(Chapters 616A-616D and 617 of NRS) Existing law entitles any injured employee or a person who has been authorized by the injured employee to information from the records of an insurer or employer to the extent necessary for the proper presentation of such a claim. (NRS 616B.012) Existing regulations: (1) prescribe a process for an injured employee or person who has been authorized by the injured employee to request such information from the records of an insurer or employer; and (2) prohibit an insurer or employer from charging a fee that is more than 30 cents per page when providing the requested information. (NAC 616B.008)

Upon receiving such a request for health care records that asks for the records to be furnished electronically, **section 3** of this bill requires an insurer, third-party administrator or employer to electronically transmit any health care records using a method of secure electronic transmission. **Section 3** prohibits an insurer, third-party administrator or employer from charging a fee that exceeds \$15 for furnishing a copy of the health care records electronically if the insurer, third-party administrator or employer maintains such health care records electronically. **Section 4** of this bill makes a conforming change to clarify that **section 3** provides an exception to the general requirement that information obtained from an insurer or employer remain confidential.

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

**Section 1.** Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. If a person who is authorized to request a copy of health care records of a patient pursuant to NRS 629.061 requests that a copy of such records be furnished electronically, the custodian of health care records must electronically transmit a copy of the requested records to the person or, if the patient has provided written authorization for records to be furnished to another person or entity, to that person or entity. Such records must be furnished in an electronic format using a method of secure electronic transmission that complies with applicable federal and state law.*

*2. If a custodian of health care records maintains health care records electronically, any fee to furnish those records electronically pursuant to subsection 1 must not exceed \$15 or the amount per page prescribed by NRS 629.061, whichever is less.*

*3. As used in this section, "secure electronic transmission" means the sending of information from one computer system to another computer system in such a manner as to ensure that:*

*(a) No person other than the intended recipient receives the information;*

*(b) The identity and signature of the sender of the information can be authenticated; and*

*(c) The information which is received by the intended recipient is identical to the information that was sent.*



1       **Sec. 2.** NRS 641.2291 is hereby amended to read as follows:

2       641.2291 1. A program of education for mental health  
3 professionals approved by the Board, a mental health professional or  
4 a person receiving training for mental health professionals is not  
5 required to retain a recording of the provision of mental health  
6 services by a psychologist to a patient that meets the requirements of  
7 subsection 2 if:

8       (a) The recording is used for a training activity that is part of a  
9 program of education for mental health professionals approved by  
10 the Board;

11       (b) The patient has provided informed consent in writing on a  
12 form that meets the requirements prescribed by the Board pursuant  
13 to subsection 3 to the use of the recording in the training activity;

14       (c) Destroying the recording does not result in noncompliance  
15 with the obligations described in subsection 4; and

16       (d) The recording is destroyed after the expiration of the period  
17 of time prescribed by the Board pursuant to paragraph (b) of  
18 subsection 3.

19       2. A recording of the provision of mental health services by a  
20 psychologist to a patient used for the purpose described in paragraph  
21 (a) of subsection 1:

22       (a) Must meet all requirements of the Health Insurance  
23 Portability and Accountability Act of 1996, Public Law 104-191,  
24 and any regulations adopted pursuant thereto, that are designed to  
25 prevent the reproduction, copying or theft of the recording; and

26       (b) Must not contain any personally identifiable information  
27 relating to the patient unless the patient has provided informed  
28 consent in writing specifically authorizing the inclusion of that  
29 information in the recording.

30       3. The Board shall adopt regulations:

31       (a) Prescribing requirements governing the provision of  
32 informed written consent pursuant to paragraph (b) of subsection 1,  
33 including, without limitation, requirements governing:

34       (1) The form on which such informed written consent must  
35 be provided; and

36       (2) The length of time that a psychologist who obtains such  
37 informed written consent must maintain the informed written  
38 consent;

39       (b) Prescribing the length of time that a program of education  
40 for mental health professionals, a mental health professional or  
41 a person receiving training for mental health professionals that uses  
42 a recording of the provision of mental health services by a  
43 psychologist to a patient for the purposes described in paragraph (a)  
44 of subsection 1 may retain the recording before destroying it; and

45       (c) Defining "training activity" for the purposes of this section.



1 4. The provisions of this section do not abrogate, alter or  
2 otherwise affect the obligation of a psychologist to comply with the  
3 applicable requirements of chapter 629 of NRS, including, without  
4 limitation, the requirement to retain records concerning the mental  
5 health services that he or she provides to patients in accordance with  
6 NRS 629.051 to 629.069, inclusive ~~H~~, *and section 1 of this act.*

7 5. Except where necessary for compliance with subsection 4,  
8 a recording of the provision of mental health services by a  
9 psychologist to a patient that is used for a training activity by a  
10 program of education for mental health professionals, a mental  
11 health professional or a person receiving training for mental health  
12 professionals in accordance with the provisions of this section is not  
13 a health care record for the purposes of chapter 629 of NRS.

14 6. As used in this section, "mental health professional" means a  
15 psychologist, a marriage and family therapist, a clinical professional  
16 counselor, a social worker, a master social worker, an independent  
17 social worker, a clinical social worker, a clinical alcohol and drug  
18 counselor, an alcohol and drug counselor or problem gambling  
19 counselor.

20 **Sec. 3.** Chapter 616B of NRS is hereby amended by adding  
21 thereto a new section to read as follows:

22 *1. If an injured employee or his or her legal representative*  
23 *requests health care records electronically from an insurer, third-*  
24 *party administrator or employer pursuant to subsection 1 of NRS*  
25 *616B.012, any other provision of chapters 616A to 616D,*  
26 *inclusive, or chapter 617 of NRS or any regulation adopted*  
27 *pursuant thereto, the insurer, third-party administrator or*  
28 *employer shall electronically transmit a copy of the requested*  
29 *records to the injured employee or legal representative. Such*  
30 *records must be furnished in an electronic format using a method*  
31 *of secure electronic transmission that complies with applicable*  
32 *federal and state law.*

33 *2. If an insurer, third-party administrator or employer*  
34 *maintains health care records electronically, any fee to furnish*  
35 *those records electronically pursuant to subsection 1 must not*  
36 *exceed \$15.*

37 *3. As used in this section:*

38 *(a) "Health care records" has the meaning ascribed to it in*  
39 *NRS 629.021.*

40 *(b) "Secure electronic transmission" has the meaning ascribed*  
41 *to it in section 1 of this act.*

42 **Sec. 4.** NRS 616B.012 is hereby amended to read as follows:

43 616B.012 1. Except as otherwise provided in this section and  
44 NRS 239.0115, 607.217, 616B.015, 616B.021 and 616C.205, *and*  
45 *section 3 of this act*, information obtained from any insurer,



1 employer or employee is confidential and may not be disclosed or  
2 be open to public inspection in any manner which would reveal the  
3 person's identity.

4 2. Any claimant or legal representative of the claimant is  
5 entitled to information from the records of the insurer, to the extent  
6 necessary for the proper presentation of a claim in any proceeding  
7 under chapters 616A to 616D, inclusive, or chapter 617 of NRS.

8 3. The Division and Administrator are entitled to information  
9 from the records of the insurer which is necessary for the  
10 performance of their duties. The Administrator may, by regulation,  
11 prescribe the manner in which otherwise confidential information  
12 may be made available to:

13 (a) Any agency of this or any other state charged with the  
14 administration or enforcement of laws relating to industrial  
15 insurance, unemployment compensation, public assistance or labor  
16 law and industrial relations;

17 (b) Any state or local agency for the enforcement of child  
18 support;

19 (c) The Internal Revenue Service of the Department of the  
20 Treasury;

21 (d) The Department of Taxation; and

22 (e) The State Contractors' Board in the performance of its duties  
23 to enforce the provisions of chapter 624 of NRS.

24 ➤ Information obtained in connection with the administration of a  
25 program of industrial insurance may be made available to persons or  
26 agencies for purposes appropriate to the operation of a program of  
27 industrial insurance.

28 4. Upon written request made by a public officer of a local  
29 government, an insurer shall furnish from its records the name,  
30 address and place of employment of any person listed in its records.  
31 The request must set forth the social security number of the person  
32 about whom the request is made and contain a statement signed by  
33 proper authority of the local government certifying that the request  
34 is made to allow the proper authority to enforce a law to recover a  
35 debt or obligation owed to the local government. Except as  
36 otherwise provided in NRS 239.0115, the information obtained by  
37 the local government is confidential and may not be used or  
38 disclosed for any purpose other than the collection of a debt or  
39 obligation owed to the local government. The insurer may charge a  
40 reasonable fee for the cost of providing the requested information.

41 5. To further a current criminal investigation, the chief  
42 executive officer of any law enforcement agency of this State may  
43 submit to the Administrator a written request for the name, address  
44 and place of employment of any person listed in the records of an  
45 insurer. The request must set forth the social security number of the



1 person about whom the request is made and contain a statement  
2 signed by the chief executive officer certifying that the request is  
3 made to further a criminal investigation currently being conducted  
4 by the agency. Upon receipt of a request, the Administrator shall  
5 instruct the insurer to furnish the information requested. Upon  
6 receipt of such an instruction, the insurer shall furnish the  
7 information requested. The insurer may charge a reasonable fee to  
8 cover any related administrative expenses.

9 6. Upon request by the Department of Taxation, the  
10 Administrator shall provide:

11 (a) Lists containing the names and addresses of employers; and

12 (b) Other information concerning employers collected and  
13 maintained by the Administrator or the Division to carry out the  
14 purposes of chapters 616A to 616D, inclusive, or chapter 617 of  
15 NRS,

16 ↪ to the Department for its use in verifying returns for the taxes  
17 imposed pursuant to chapters 363A, 363B, 363C and 363D of NRS.  
18 The Administrator may charge a reasonable fee to cover any related  
19 administrative expenses.

20 7. Any person who, in violation of this section, discloses  
21 information obtained from files of claimants or policyholders or  
22 obtains a list of claimants or policyholders under chapters 616A to  
23 616D, inclusive, or chapter 617 of NRS and uses or permits the use  
24 of the list for any political purposes, is guilty of a gross  
25 misdemeanor.

26 8. All letters, reports or communications of any kind, oral or  
27 written, from the insurer, or any of its agents, representatives or  
28 employees are privileged and must not be the subject matter or basis  
29 for any lawsuit if the letter, report or communication is written, sent,  
30 delivered or prepared pursuant to the requirements of chapters 616A  
31 to 616D, inclusive, or chapter 617 of NRS.

32 9. The provisions of this section do not prohibit the  
33 Administrator or the Division from:

34 (a) Disclosing any nonproprietary information relating to an  
35 uninsured employer or proof of industrial insurance; or

36 (b) Notifying an injured employee or the surviving spouse or  
37 dependent of an injured employee of benefits to which such persons  
38 may be entitled in addition to those provided pursuant to the  
39 provisions of chapters 616A to 616D, inclusive, or chapter 617 of  
40 NRS but only if:

41 (1) The notification is solely for the purpose of informing the  
42 recipient of benefits that are available to the recipient; and

43 (2) The content of the notification is limited to information  
44 concerning services which are offered by nonprofit entities.



1     **Sec. 5.** The provisions of NRS 354.599 do not apply to any  
2 additional expenses of a local government that are related to the  
3 provisions of this act.

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