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ASSEMBLY BILL NO. 47—COMMITTEE  
ON COMMERCE AND LABOR

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 18, 2020

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Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to unfair trade practices.  
(BDR 52-425)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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

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AN ACT relating to unfair trade practices; requiring certain notice be provided to the Attorney General before the consummation of certain mergers and acquisitions; making it unlawful to enter into certain agreements which restrain a natural person from engaging in a lawful profession, trade or business; providing that certain provisions in certain agreements or policies related to health care are void and unenforceable unless approved by the Attorney General; prescribing procedures and criteria for obtaining such approval; revising provisions relating to proceedings instituted by the Attorney General under the Nevada Unfair Trade Practice Act; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 The Nevada Unfair Trade Practice Act sets forth various activities that  
2 constitute a contract, combination or conspiracy in restraint of trade and authorizes  
3 the Attorney General to investigate and take certain actions against persons who  
4 engage in such activities, which may include, without limitation, criminal  
5 prosecution and the imposition of civil penalties. (Chapter 598A of NRS) This bill  
6 makes various changes to the Nevada Unfair Trade Practice Act.

7 The federal Hart-Scott-Rodino Antitrust Improvements Act of 1976 requires  
8 certain persons who intend to engage in certain mergers or acquisitions to file a  
9 notification with the Federal Trade Commission and the United States Department



10 of Justice. (15 U.S.C. § 18a) **Sections 2-10** of this bill impose similar notification  
11 requirements for certain persons and transactions in this State. **Section 6** of this bill  
12 requires all parties to an intended merger or acquisition to file a notice with the  
13 Attorney General at least 180 days before the merger or acquisition if any party to  
14 the transaction has had a certain amount of gross sales to consumers in this State  
15 and the transaction involves a certain amount of voting securities, assets and other  
16 interests. **Section 7** of this bill requires a person who is required to file a  
17 notification under the federal Hart-Scott-Rodino Antitrust Improvements Act of  
18 1976 to simultaneously submit a copy of the filing to the Attorney General. **Section**  
19 **8** of this bill authorizes the Attorney General to issue written investigative demands  
20 upon a party to the intended merger or acquisition within 30 days after receiving a  
21 notice. **Section 10** of this bill provides for the imposition of a civil penalty of up to  
22 \$1,000 per day for violations of the notice requirements set forth in **sections 2-10**.

23 Existing law allows certain noncompetition agreements between an employer  
24 and employee to be enforceable under certain circumstances. (NRS 613.195)  
25 **Section 11** of this bill makes it unlawful to enter into an agreement which restrains  
26 a natural person from engaging in a lawful profession, trade or business of any  
27 kind. **Section 11** sets forth certain exceptions to this prohibition for certain  
28 agreements involving: (1) the sale of a business; (2) the dissolution of or  
29 dissociation from a partnership; or (3) the dissolution of or termination of an  
30 interest in a limited-liability company. **Section 25** of this bill makes a conforming  
31 change to eliminate the provision in existing law relating to such agreements  
32 because **section 11** now governs such agreements.

33 **Section 12** of this bill requires a person who wishes to enter into certain  
34 agreements or adopt certain policies related to health care to submit the proposed  
35 agreement or policy to the Attorney General for approval if it contains certain  
36 provisions that: (1) relate to the exclusivity of a provider or provider organization;  
37 (2) prohibit certain purchases and sales of health care services; or (3) restrict the  
38 ability of a health carrier to encourage a person to obtain a health care service from  
39 certain hospitals or hospital systems. **Section 12** requires the Attorney General to  
40 approve the proposed agreement or policy if he or she determines that: (1) the  
41 agreement or policy is likely to result in an increase in the welfare of consumers;  
42 (2) such increase cannot be accomplished through alternative means that are less  
43 restrictive; and (3) the agreement or policy does not constitute a contract,  
44 combination or conspiracy in restraint of trade. Under **section 12**, any of the  
45 previously described provisions in any agreement or policy are void and  
46 unenforceable unless the agreement or policy is approved by the Attorney General.  
47 **Section 24** of this bill requires all agreements or policies containing such  
48 provisions which are in effect on October 1, 2021, to be submitted to the Attorney  
49 General by June 1, 2022. If the Attorney General does not approve the agreement  
50 or policy before June 1, 2023, **section 24** provides that such provisions are void and  
51 unenforceable on that date.

52 **Section 15** of this bill provides that certain agreements or policies that restrict  
53 the ability of a provider to provide a health care service or restrict the amount of a  
54 health care service provided within certain geographic areas constitute a contract,  
55 combination or conspiracy in restraint of trade under certain circumstances.

56 **Sections 16, 17, 19 and 20** of this bill revise provisions relating to proceedings  
57 instituted by the Attorney General under the Nevada Unfair Trade Practice Act to  
58 generally authorize additional equitable relief for violations of the Act. **Section 18**  
59 of this bill requires public officers and employees to provide certain information to  
60 the Attorney General relating to such proceedings upon request.



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

1 **Section 1.** Chapter 598A of NRS is hereby amended by  
2 adding thereto the provisions set forth as sections 2 to 12, inclusive,  
3 of this act.

4 **Sec. 2.** *As used in sections 2 to 10, inclusive, of this act,*  
5 *unless the context otherwise requires, the word and terms defined*  
6 *in sections 3, 4 and 5 of this act have the meanings ascribed to*  
7 *them in those sections.*

8 **Sec. 3.** *“Acquisition” means an agreement, arrangement or*  
9 *activity, the consummation of which results in a person acquiring,*  
10 *directly or indirectly, the control of another person. The term*  
11 *includes, without limitation, the acquiring of a voting security,*  
12 *asset, capital stock, membership interest or equity interest.*

13 **Sec. 4.** *“Control” means the possession, direct or indirect, of*  
14 *the power to direct or cause the direction of the management and*  
15 *policies of a person.*

16 **Sec. 5.** *“Merger” means a consolidation of two or more*  
17 *business entities. The term includes, without limitation, two or*  
18 *more business entities joining through a common parent business*  
19 *entity and two or more business entities forming a new business*  
20 *entity.*

21 **Sec. 6. 1.** *At least 180 days before the consummation of a*  
22 *merger or acquisition, each person who is a party to the intended*  
23 *merger or acquisition shall submit a notice to the Attorney*  
24 *General if:*

25 *(a) Any person who is a party to the intended merger or*  
26 *acquisition is a person whose gross sales of commodities or*  
27 *services to consumers in this State has exceeded \$5,000,000 in any*  
28 *of the 3 years immediately preceding the merger or acquisition;*  
29 *and*

30 *(b) The aggregate value of the voting securities, assets and*  
31 *other interests to be acquired or merged exceeds \$25,000,000.*

32 **2.** *The notice required pursuant to subsection 1 must be in*  
33 *the form prescribed by the Attorney General and include, without*  
34 *limitation:*

35 *(a) The name and business address of each party to the*  
36 *intended merger or acquisition;*

37 *(b) A brief description of the nature and purpose of the*  
38 *intended merger or acquisition; and*

39 *(c) The anticipated effective date of the intended merger or*  
40 *acquisition.*



1       3. *The provisions of subsection 2 do not prohibit a person*  
2 *from voluntarily providing additional information to the Attorney*  
3 *General.*

4       **Sec. 7.** *1. Any person conducting business in this State that*  
5 *files a notification with the Federal Trade Commission or the*  
6 *United States Department of Justice pursuant to the Hart-Scott-*  
7 *Rodino Antitrust Improvements Act of 1976, 15 U.S.C. § 18a, shall*  
8 *simultaneously submit a copy of the filing to the Attorney General.*

9       *2. A person that submits a copy of a filing to the Attorney*  
10 *General pursuant to subsection 1 satisfies the requirement for*  
11 *notice set forth in section 6 of this act.*

12       **Sec. 8.** *1. If, after receipt of a notice or filing submitted*  
13 *pursuant to section 6 or 7 of this act, the Attorney General*  
14 *requires additional information regarding the proposed merger or*  
15 *acquisition, the Attorney General may issue a written investigative*  
16 *demand upon any person who is a party to the proposed merger or*  
17 *acquisition in the manner provided in NRS 598A.100. All such*  
18 *demands must be made within 30 days after the date upon which*  
19 *the Attorney General received the notice or filing.*

20       *2. Nothing in this section limits the power of the Attorney*  
21 *General to issue an investigative demand in connection with an*  
22 *investigation of a suspected violation of the provisions of this*  
23 *chapter pursuant to NRS 598A.100 outside of the time period*  
24 *specified in subsection 1.*

25       **Sec. 9.** *Any information received by the Attorney General*  
26 *pursuant to sections 2 to 10, inclusive, of this act must be kept*  
27 *confidential in the same manner and to the same extent as*  
28 *required in NRS 598A.110.*

29       **Sec. 10.** *1. A person who violates any provision of sections*  
30 *2 to 10, inclusive, of this act is subject to a civil penalty not to*  
31 *exceed \$1,000 for each day of the violation.*

32       *2. The provisions of sections 2 to 10, inclusive, of this act do*  
33 *not establish a private right of action against any person.*

34       **Sec. 11.** *1. Except as otherwise provided in this section, it is*  
35 *unlawful to enter into an agreement which restrains a natural*  
36 *person from engaging in a lawful profession, trade or business of*  
37 *any kind. Any such agreement is void and must not be given effect*  
38 *to the extent that it violates the provisions of this section.*

39       *2. A violation of this section constitutes a prohibited act*  
40 *under NRS 598A.060.*

41       *3. The provisions of this section do not prohibit:*

42       *(a) A person who sells a business from agreeing with the buyer*  
43 *to refrain from carrying on a similar business in a specified*  
44 *geographic area in which the business is sold or in which the*  
45 *seller has been carrying on business, so long as the buyer, or any*



1 *person deriving title to the business or its goodwill from the buyer,*  
2 *carries on a like business therein.*

3 (b) *A member of a partnership, upon or in anticipation of the*  
4 *dissolution of the partnership or dissociation from the partnership,*  
5 *from agreeing that the member will not carry on a similar*  
6 *business within a specified geographic area where the business of*  
7 *the partnership was regularly carried on, so long as any other*  
8 *member of the partnership, or any person deriving title to the*  
9 *business or its goodwill from such a member, carries on a like*  
10 *business therein.*

11 (c) *A member of a limited-liability company, upon or in*  
12 *anticipation of the dissolution of the limited-liability company or*  
13 *the termination of the interest of the member in the company,*  
14 *from agreeing that the member will not carry on a similar*  
15 *business within a specified geographic area where the business of*  
16 *the limited-liability company was regularly carried on, so long as*  
17 *any other member of the limited-liability company, or any person*  
18 *deriving title to the business or its goodwill, carries on a like*  
19 *business therein.*

20 4. *For the purposes of paragraph (a) of subsection 3, a*  
21 *person "sells a business" when the person sells:*

22 (a) *The goodwill of a business;*

23 (b) *All of the person's ownership interest in a business;*

24 (c) *All or substantially all of the operating assets and goodwill*  
25 *of a business;*

26 (d) *All or substantially all of the operating assets and goodwill*  
27 *of a subsidiary of the person; or*

28 (e) *All of the person's ownership interest in a subsidiary of the*  
29 *person.*

30 **Sec. 12. 1. Any provision in an:**

31 (a) *Agreement between a provider or provider organization*  
32 *and hospital or hospital system which:*

33 (1) *Grants the provider or provider organization the right to*  
34 *be the exclusive provider of a specified health care service for the*  
35 *hospital or hospital system; or*

36 (2) *Prohibits a provider or provider organization from*  
37 *providing a specified health care service for a competitor of the*  
38 *hospital or hospital system;*

39 (b) *Agreement or policy of a provider organization, hospital,*  
40 *hospital system or health carrier that prohibits:*

41 (1) *A hospital, hospital system or health carrier from*  
42 *purchasing a health care service from a provider organization; or*

43 (2) *A provider organization from selling a health care*  
44 *service to a hospital, hospital system or health carrier; or*



1 (c) *Agreement between a hospital or hospital system and a*  
2 *health carrier that restricts the ability of the health carrier to*  
3 *encourage a person to obtain a health care service from a*  
4 *competitor of the hospital or hospital system,*

5 *↳ is void and unenforceable unless the agreement or policy is*  
6 *approved by the Attorney General in accordance with this section.*

7 2. *A person who wishes to enter into an agreement or adopt a*  
8 *policy containing a provision specified in subsection 1 shall*  
9 *submit the proposed agreement or policy to the Attorney General*  
10 *for approval. The proposed agreement or policy must be*  
11 *accompanied by the following information:*

12 (a) *The name and business address of each party to the*  
13 *proposed agreement or policy;*

14 (b) *An identification of each location at which any party to the*  
15 *agreement or policy provides health care services;*

16 (c) *The anticipated date that the proposed agreement or policy*  
17 *will become effective; and*

18 (d) *Such information as the Attorney General requires to*  
19 *demonstrate that the proposed agreement or policy will result in*  
20 *an increase in the welfare of consumers that cannot be*  
21 *accomplished through alternative means that are less restrictive.*

22 3. *The Attorney General shall approve a proposed agreement*  
23 *or policy submitted pursuant to subsection 2 if the Attorney*  
24 *General determines that:*

25 (a) *The agreement or policy is likely to result in an increase in*  
26 *the welfare of consumers;*

27 (b) *Such increase in the welfare of consumers cannot be*  
28 *accomplished through alternative means that are less restrictive;*  
29 *and*

30 (c) *The agreement or policy does not constitute a contract,*  
31 *combination or conspiracy in restraint of trade as described in*  
32 *subsection 1 of NRS 598A.060.*

33 4. *The Attorney General shall provide written notice of the*  
34 *approval or disapproval of a proposed agreement or policy to each*  
35 *party to the agreement or policy within 180 days after its*  
36 *submission pursuant to subsection 2. If the Attorney General*  
37 *disapproves a proposed agreement or policy, the Attorney General*  
38 *shall include in the written notice the reasons for the disapproval.*

39 5. *The decision of the Attorney General to disapprove a*  
40 *proposed agreement or policy pursuant to this section is a final*  
41 *decision for the purposes of judicial review.*

42 6. *Each party to any agreement or policy approved pursuant*  
43 *to this section shall, on or before June 1 of each year in which the*  
44 *agreement or policy is in effect, submit to the Attorney General a*  
45 *copy of the approved agreement or policy.*



1       **Sec. 13.** NRS 598A.020 is hereby amended to read as follows:  
2       598A.020 When used in this chapter, unless the context  
3 otherwise requires:

4       1. "Commodity" means any goods, merchandise, wares,  
5 produce, chose in action, patents, trademarks, articles of commerce,  
6 or other tangible or intangible property, real, personal, or mixed, for  
7 use, consumption, enjoyment or resale.

8       2. *"Health care service" means any service for the diagnosis,*  
9 *prevention, treatment, care or relief of a health condition, illness,*  
10 *injury or disease.*

11       3. *"Health carrier" has the definition ascribed to it in*  
12 *NRS 695G.024.*

13       4. *"Hospital" has the meaning ascribed to it in NRS 449.012.*

14       5. *"Hospital system" means:*

15       (a) *A parent company of one or more hospitals and any person*  
16 *that is affiliated with the parent company through common*  
17 *ownership or control; or*

18       (b) *A hospital and any person that is affiliated with the*  
19 *hospital through common ownership.*

20       6. *"Provider" means a physician licensed pursuant to chapter*  
21 *630 or 633 of NRS, physician assistant, licensed nurse, dispensing*  
22 *optician, optometrist, practitioner of respiratory care, licensed*  
23 *physical therapist, occupational therapist, licensed psychologist or*  
24 *perfusionist.*

25       7. *"Provider organization" means a person engaged in the*  
26 *business of health care delivery or management that represents at*  
27 *least seven providers in contracting with health carriers or third-*  
28 *party administrators for the payments for health care services. The*  
29 *term includes, without limitation, a physician organization,*  
30 *physician-hospital organization, independent practice association,*  
31 *provider network and accountable care organization.*

32       8. "Service" means any activity performed or benefit conferred  
33 for the purpose of economic gain.

34       ~~8.9.~~ 9. *"Third-party administrator" means a person that*  
35 *administers payments for health care services on behalf of a client*  
36 *in exchange for an administrative fee.*

37       10. "Trade or commerce" includes all economic activity  
38 involving or relating to any commodity or service.

39       **Sec. 14.** NRS 598A.040 is hereby amended to read as follows:  
40       598A.040 The provisions of this chapter do not apply to:

41       1. Any labor, agricultural or horticultural organizations  
42 organized for the purpose of self-help and not for profit to itself nor  
43 to individual members thereof, while lawfully carrying out its  
44 legitimate objects.



1 2. Bona fide religious and charitable activities of any nonprofit  
2 corporation, trust or organization established exclusively for  
3 religious or charitable purposes.

4 3. Conduct which is expressly authorized, regulated or  
5 approved by:

6 (a) A statute of this State or of the United States;

7 (b) An ordinance of any city or county of this State, except for  
8 ordinances relating to video service providers; or

9 (c) An administrative agency of this State or of the United States  
10 or of a city or county of this State, having jurisdiction of the subject  
11 matter.

12 4. Conduct or agreements relating to rates, fares,  
13 classifications, divisions, allowances or charges, including charges  
14 between carriers and compensation paid or received for the use of  
15 facilities and equipment, that are authorized, regulated or approved  
16 by the Nevada Transportation Authority pursuant to chapter 706 of  
17 NRS.

18 5. Restrictive covenants ~~is~~:

19 ~~—(a) Which are part of a contract of sale for a business and which~~  
20 ~~bar the seller of the business from competing with the purchaser of~~  
21 ~~the business sold within a reasonable market area for a reasonable~~  
22 ~~period of time; or~~

23 ~~—(b) Which]~~ *which* are part of a commercial shopping center  
24 lease and which bar the parties from permitting or engaging in the  
25 furnishing of certain services or the sale of certain commodities  
26 within the commercial shopping center where such leased premises  
27 are located.

28 **Sec. 15.** NRS 598A.060 is hereby amended to read as follows:

29 598A.060 1. Every activity enumerated in this subsection  
30 constitutes a contract, combination or conspiracy in restraint of  
31 trade, and it is unlawful to conduct any part of any such activity in  
32 this State:

33 (a) Price fixing, which consists of raising, depressing, fixing,  
34 pegging or stabilizing the price of any commodity or service, and  
35 which includes, but is not limited to:

36 (1) Agreements among competitors to depress prices at  
37 which they will buy essential raw material for the end product.

38 (2) Agreements to establish prices for commodities or  
39 services.

40 (3) Agreements to establish uniform discounts, or to  
41 eliminate discounts.

42 (4) Agreements between manufacturers to price a premium  
43 commodity a specified amount above inferior commodities.

44 (5) Agreements not to sell below cost.

45 (6) Agreements to establish uniform trade-in allowances.



1 (7) Establishment of uniform cost surveys.  
2 (8) Establishment of minimum markup percentages.  
3 (9) Establishment of single or multiple basing point systems  
4 for determining the delivered price of commodities.

5 (10) Agreements not to advertise prices.

6 (11) Agreements among competitors to fix uniform list  
7 prices as a place to start bargaining.

8 (12) Bid rigging, including the misuse of bid depositories,  
9 foreclosures of competitive activity for a period of time, rotation of  
10 jobs among competitors, submission of identical bids, and  
11 submission of complementary bids not intended to secure  
12 acceptance by the customer.

13 (13) Agreements to discontinue a product, or agreements  
14 with anyone engaged in the manufacture of competitive lines to  
15 limit size, styles or quantities of items comprising the lines.

16 (14) Agreements to restrict volume of production.

17 (b) Division of markets, consisting of agreements between  
18 competitors to divide territories and to refrain from soliciting or  
19 selling in certain areas.

20 (c) Allocation of customers, consisting of agreements not to sell  
21 to specified customers of a competitor.

22 (d) Tying arrangements, consisting of contracts in which the  
23 seller or lessor conditions the sale or lease of commodities or  
24 services on the purchase or leasing of another commodity or service.

25 (e) Monopolization of trade or commerce in this State,  
26 including, without limitation, attempting to monopolize or otherwise  
27 combining or conspiring to monopolize trade or commerce in this  
28 State.

29 (f) *Except as otherwise provided in subsection 2, entering into*  
30 *agreements or policies that restrict:*

31 (1) *The ability of a provider to provide a health care service*  
32 *to any person within a geographic area in this State delineated by*  
33 *the United States Office of Management and Budget as a core-*  
34 *based statistical area; or*

35 (2) *The amount of a health care service provided within a*  
36 *geographic area in this State delineated by the United States*  
37 *Office of Management and Budget as a core-based statistical area,*  
38 *↪ if, within that area, there is a sole provider of the health care*  
39 *service and there is no reasonable substitute for the health care*  
40 *service.*

41 (g) Except as otherwise provided in subsection ~~2~~ 3,  
42 consolidation, conversion, merger, acquisition of shares of stock or  
43 other equity interest, directly or indirectly, of another person  
44 engaged in commerce in this State or the acquisition of any assets of  
45 another person engaged in commerce in this State that may:



1 (1) Result in the monopolization of trade or commerce in this  
2 State or would further any attempt to monopolize trade or commerce  
3 in this State; or

4 (2) Substantially lessen competition or be in restraint of  
5 trade.

6 2. *The provisions of paragraph (f) of subsection 1 do not*  
7 *prohibit a provider from providing a health care service*  
8 *exclusively for a business organization in which the provider has a*  
9 *controlling or majority ownership interest.*

10 3. The provisions of paragraph ~~(f)~~ (g) of subsection 1 do not:

11 (a) Apply to a person who, solely for an investment purpose,  
12 purchases stock or other equity interest or assets of another person if  
13 the purchaser does not use his or her acquisition to bring about or  
14 attempt to bring about the substantial lessening of competition in  
15 this State.

16 (b) Prevent a person who is engaged in commerce in this State  
17 from forming a subsidiary corporation or other business  
18 organization and owning and holding all or part of the stock or  
19 equity interest of that corporation or organization.

20 **Sec. 16.** NRS 598A.070 is hereby amended to read as follows:

21 598A.070 1. The Attorney General shall:

22 (a) Enforce the provisions of this chapter.

23 (b) Investigate suspected violations of the provisions of this  
24 chapter.

25 (c) Institute proceedings on behalf of the State, its agencies,  
26 political subdivisions, districts or municipal corporations, or as  
27 parens patriae of the persons residing in the State for:

28 (1) Injunctive relief to prevent and restrain a violation of any  
29 provision of this chapter ~~(f)~~, *including, without limitation, a*  
30 *temporary restraining order, preliminary injunction or permanent*  
31 *injunction.*

32 (2) Civil penalties for violations of the provisions of this  
33 chapter.

34 (3) Criminal penalties for violations of the provisions of this  
35 chapter.

36 (4) *Other equitable relief for violations of the provisions of*  
37 *this chapter, including, without limitation, disgorgement or*  
38 *restitution.*

39 2. Any district attorney in this State, with the permission or at  
40 the direction of the Attorney General, shall institute proceedings in  
41 the name of the State of Nevada for any violation of the provisions  
42 of this chapter.

43 **Sec. 17.** NRS 598A.090 is hereby amended to read as follows:

44 598A.090 The district courts have jurisdiction over actions and  
45 proceedings for violations of the provisions of this chapter and may:



1 1. Issue temporary restraining orders and injunctions to prevent  
2 and restrain violations of the provisions of this chapter.

3 2. Impose civil and criminal penalties and award damages as  
4 provided in this chapter.

5 3. Grant mandatory injunctions reasonably necessary to  
6 eliminate practices which are unlawful under the provisions of this  
7 chapter.

8 **4. *Grant other equitable relief the court considers appropriate***  
9 ***for violations of the provisions of this chapter, including, without***  
10 ***limitation, disgorgement or restitution.***

11 **Sec. 18.** NRS 598A.150 is hereby amended to read as follows:

12 598A.150 It is the duty of all public officers, their deputies,  
13 assistants, clerks, subordinates or employees, to render and furnish  
14 to the Attorney General, his or her deputy or other designated  
15 representative, when so requested, ***including, without limitation,***  
16 ***during the time in which discovery is being conducted in a***  
17 ***proceeding instituted by the Attorney General,*** all the information  
18 and assistance in their possession or within their power relating to  
19 investigations carried out ***and proceedings instituted*** under the  
20 provisions of this chapter.

21 **Sec. 19.** NRS 598A.160 is hereby amended to read as follows:

22 598A.160 1. The Attorney General may bring a civil action  
23 for any violation of the provisions of this chapter in the name of the  
24 State of Nevada and is entitled to recover damages and secure other  
25 relief provided by the provisions of this chapter:

26 (a) As parens patriae of the persons residing in this State, with  
27 respect to damages sustained directly or indirectly by such persons,  
28 or, alternatively, if the court finds in its discretion that the interests  
29 of justice so require, as a representative of a class or classes  
30 consisting of persons residing in this State who have been damaged  
31 directly or indirectly; or

32 (b) As parens patriae, with respect to direct or indirect damages  
33 to the general economy of the State of Nevada or any ***agency or***  
34 ***political subdivision*** thereof.

35 2. In any action under this section, this State:

36 (a) May recover the aggregate damage sustained by the persons  
37 on whose behalf this State sues, without separately proving the  
38 individual claims of each such person. Proof of such damages must  
39 be based on:

40 (1) Statistical or sampling methods;

41 (2) The pro rata allocation of illegal overcharges of sales  
42 occurring within the State of Nevada; or

43 (3) Such other reasonable system of estimating aggregate  
44 damages as the court may permit.



1 (b) Shall distribute, allocate or otherwise pay the amounts so  
2 recovered in accordance with state law, or in the absence of any  
3 applicable state law, as the district court may authorize, subject to  
4 the requirement that any distribution procedure adopted afford each  
5 person on whose behalf this State sues a reasonable opportunity  
6 individually to secure the pro rata portion of such recovery  
7 attributable to his, her or its respective claims for damages, less  
8 litigation and administrative costs, including attorney fees, before  
9 any of the recovery is escheated.

10 **Sec. 20.** NRS 598A.210 is hereby amended to read as follows:

11 598A.210 *Except as otherwise provided in section 10 of this*  
12 *act:*

13 1. Any person threatened with injury or damage to his or her  
14 business or property by reason of a violation of any provision of this  
15 chapter may institute a civil action or proceeding for injunctive *or*  
16 *other equitable* relief , *including, without limitation, a*  
17 *temporary restraining order, a preliminary or permanent*  
18 *injunction, restitution or disgorgement.* If the court issues a  
19 permanent injunction, the plaintiff shall recover reasonable attorney  
20 fees, together with costs, as determined by the court.

21 2. Any person injured or damaged directly or indirectly in his  
22 or her business or property by reason of a violation of the provisions  
23 of this chapter may institute a civil action and shall recover treble  
24 damages, together with reasonable attorney fees and costs.

25 3. Any person commencing an action for any violation of the  
26 provisions of this chapter shall, simultaneously with the filing of  
27 the complaint with the court, mail a copy of the complaint to the  
28 Attorney General.

29 **Sec. 21.** NRS 239.010 is hereby amended to read as follows:

30 239.010 1. Except as otherwise provided in this section and  
31 NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293,  
32 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170,  
33 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113,  
34 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200,  
35 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345,  
36 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880,  
37 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280,  
38 119A.653, 119A.677, 119B.370, 119B.382, 120A.690, 125.130,  
39 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057,  
40 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050,  
41 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015,  
42 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,  
43 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771,  
44 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392,  
45 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140,



1 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,  
2 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240,  
3 218G.350, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069,  
4 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239.014,  
5 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230,  
6 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030,  
7 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560,  
8 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490,  
9 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350,  
10 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068,  
11 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830,  
12 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870,  
13 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061,  
14 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725,  
15 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049,  
16 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,  
17 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180,  
18 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008,  
19 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455,  
20 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249,  
21 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147,  
22 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335,  
23 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460,  
24 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685,  
25 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153,  
26 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350,  
27 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175,  
28 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,  
29 432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207,  
30 439.4941, 439.840, 439.914, 439B.420, 439B.754, 439B.760,  
31 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395,  
32 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345,  
33 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188,  
34 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,  
35 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,  
36 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545,  
37 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536,  
38 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484E.070,  
39 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160,  
40 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090,  
41 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012,  
42 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238,  
43 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425,  
44 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069,  
45 630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368,



1 632.121, 632.125, 632.3415, 632.405, 633.283, 633.301, 633.4715,  
2 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,  
3 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,  
4 640A.220, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745,  
5 640C.760, 640D.190, 640E.340, 641.090, 641.221, 641.325,  
6 641A.191, 641A.262, 641A.289, 641B.170, 641B.282, 641B.460,  
7 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180,  
8 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,  
9 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330,  
10 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228,  
11 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133,  
12 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380,  
13 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800,  
14 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285,  
15 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540,  
16 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,  
17 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696,  
18 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538,  
19 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120,  
20 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and*  
21 *section 9 of this act*, sections 35, 38 and 41 of chapter 478, Statutes  
22 of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada  
23 2013 and unless otherwise declared by law to be confidential, all  
24 public books and public records of a governmental entity must be  
25 open at all times during office hours to inspection by any person,  
26 and may be fully copied or an abstract or memorandum may be  
27 prepared from those public books and public records. Any such  
28 copies, abstracts or memoranda may be used to supply the general  
29 public with copies, abstracts or memoranda of the records or may be  
30 used in any other way to the advantage of the governmental entity or  
31 of the general public. This section does not supersede or in any  
32 manner affect the federal laws governing copyrights or enlarge,  
33 diminish or affect in any other manner the rights of a person in any  
34 written book or record which is copyrighted pursuant to federal law.  
35 2. A governmental entity may not reject a book or record  
36 which is copyrighted solely because it is copyrighted.  
37 3. A governmental entity that has legal custody or control of a  
38 public book or record shall not deny a request made pursuant to  
39 subsection 1 to inspect or copy or receive a copy of a public book or  
40 record on the basis that the requested public book or record contains  
41 information that is confidential if the governmental entity can  
42 redact, delete, conceal or separate, including, without limitation,  
43 electronically, the confidential information from the information  
44 included in the public book or record that is not otherwise  
45 confidential.



1 4. If requested, a governmental entity shall provide a copy of a  
2 public record in an electronic format by means of an electronic  
3 medium. Nothing in this subsection requires a governmental entity  
4 to provide a copy of a public record in an electronic format or by  
5 means of an electronic medium if:

6 (a) The public record:

7 (1) Was not created or prepared in an electronic format; and

8 (2) Is not available in an electronic format; or

9 (b) Providing the public record in an electronic format or by  
10 means of an electronic medium would:

11 (1) Give access to proprietary software; or

12 (2) Require the production of information that is confidential  
13 and that cannot be redacted, deleted, concealed or separated from  
14 information that is not otherwise confidential.

15 5. An officer, employee or agent of a governmental entity who  
16 has legal custody or control of a public record:

17 (a) Shall not refuse to provide a copy of that public record in the  
18 medium that is requested because the officer, employee or agent has  
19 already prepared or would prefer to provide the copy in a different  
20 medium.

21 (b) Except as otherwise provided in NRS 239.030, shall, upon  
22 request, prepare the copy of the public record and shall not require  
23 the person who has requested the copy to prepare the copy himself  
24 or herself.

25 **Sec. 22.** NRS 450.440 is hereby amended to read as follows:

26 450.440 1. Except as otherwise provided in subsection 2, the  
27 board of hospital trustees shall organize a staff of physicians  
28 composed of each regular practicing physician, podiatric physician  
29 and dentist in the county in which the hospital is located who  
30 requests staff membership and meets the standards set forth in the  
31 regulations prescribed by the board of hospital trustees.

32 2. The board of hospital trustees may, after consulting with the  
33 chief of staff of the hospital and the deans of the University of  
34 Nevada School of Medicine and the University of Nevada, Las  
35 Vegas, School of Dental Medicine, organize a staff of physicians  
36 composed of physicians, podiatric physicians and dentists who are  
37 affiliated with the University of Nevada School of Medicine or the  
38 University of Nevada, Las Vegas, School of Dental Medicine who  
39 request staff membership and meet the requirements set forth in  
40 subsection 3. If the board of hospital trustees organizes a staff of  
41 physicians in accordance with this subsection, the board of hospital  
42 trustees may require:

43 (a) Not more than 60 percent of the staff of physicians to be so  
44 affiliated before January 1, 2013.



1 (b) Not more than 85 percent of the staff of physicians to be so  
2 affiliated on or after January 1, 2013, and before January 1, 2018.

3 (c) The staff of physicians to have such an affiliation in such a  
4 percentage as the board of hospital trustees deems appropriate on or  
5 after January 1, 2018.

6 3. Except as otherwise provided in subsection 4, if the board of  
7 hospital trustees decides to organize the staff of physicians in  
8 accordance with subsection 2, a physician, podiatric physician or  
9 dentist who requests staff membership must:

10 (a) Meet the standards set forth in the regulations prescribed by  
11 the board of hospital trustees; and

12 (b) Hold a faculty or clinical appointment with the University of  
13 Nevada School of Medicine or the University of Nevada, Las  
14 Vegas, School of Dental Medicine and maintain that appointment  
15 while he or she is on the staff of physicians.

16 4. If the board of hospital trustees decides to organize the staff  
17 of physicians in accordance with subsection 2, the board of hospital  
18 trustees may enter into a contract with a physician or group of  
19 physicians who do not meet the requirements of subsection 3 if ~~the~~  
20 :

21 (a) *The* physician or group of physicians will be the exclusive  
22 provider of certain services for the hospital ~~[. Such services may~~  
23 ~~include,]~~ , *including*, without limitation, radiology, pathology,  
24 emergency medicine and neonatology services ~~[.]~~; *and*

25 (b) *The contract is approved by the Attorney General in*  
26 *accordance with section 12 of this act.*

27 5. The provisions of subsections 2 and 3 shall not be deemed to  
28 prohibit a physician, podiatric physician or dentist who is on the  
29 staff of physicians from being affiliated with another institution of  
30 higher education.

31 6. The staff shall organize in a manner prescribed by the board  
32 so that there is a rotation of service among the members of the staff  
33 to give proper medical and surgical attention and service to the  
34 indigent sick, injured or maimed who may be admitted to the  
35 hospital for treatment.

36 7. The board of hospital trustees or the board of county  
37 commissioners may offer the following assistance to members of the  
38 staff to attract and retain them:

39 (a) Establishment of clinic or group practice;

40 (b) Malpractice insurance coverage under the hospital's policy  
41 of professional liability insurance;

42 (c) Professional fee billing; and

43 (d) The opportunity to rent office space in facilities owned or  
44 operated by the hospital, as the space is available, if this opportunity



1 is offered to all members of the staff on the same terms and  
2 conditions.

3 **Sec. 23.** NRS 613.200 is hereby amended to read as follows:

4 613.200 1. Except as otherwise provided in this section, ~~and~~  
5 ~~NRS 613.195,~~ any person, association, company or corporation  
6 within this State, or any agent or officer on behalf of the person,  
7 association, company or corporation, who willfully does anything  
8 intended to prevent any person who for any cause left or was  
9 discharged from his, her or its employ from obtaining employment  
10 elsewhere in this State is guilty of a gross misdemeanor and shall be  
11 punished by a fine of not more than \$5,000.

12 2. In addition to any other remedy or penalty, the Labor  
13 Commissioner may impose against each culpable party an  
14 administrative penalty of not more than \$5,000 for each such  
15 violation.

16 3. If a fine or an administrative penalty is imposed pursuant to  
17 this section, the costs of the proceeding, including investigative  
18 costs and attorney's fees, may be recovered by the Labor  
19 Commissioner.

20 4. The provisions of this section do not prohibit a person,  
21 association, company, corporation, agent or officer from  
22 negotiating, executing and enforcing an agreement with an  
23 employee of the person, association, company or corporation which,  
24 upon termination of the employment, prohibits the employee from  
25 disclosing any trade secrets, business methods, lists of customers,  
26 secret formulas or processes or confidential information learned or  
27 obtained during the course of his or her employment with the  
28 person, association, company or corporation if the agreement is  
29 supported by valuable consideration and is otherwise reasonable in  
30 its scope and duration.

31 **Sec. 24.** 1. Except as otherwise provided in this section, the  
32 amendatory provisions of this act do not apply to any agreement  
33 entered into or policy adopted before October 1, 2021.

34 2. A person who is a party to an agreement or policy which  
35 contains a provision specified in subsection 1 of section 12 of this  
36 act that is in effect on October 1, 2021, shall, on or before June 1,  
37 2022, submit the agreement or policy to the Attorney General for  
38 approval. The agreement or policy must be accompanied by the  
39 following information:

40 (a) The name and business address of each party to the  
41 agreement or policy;

42 (b) An identification of each location at which any party to the  
43 agreement or policy provides health care services; and

44 (c) Such information as the Attorney General requires to  
45 demonstrate that the proposed agreement or policy results in an



1 increase in the welfare of consumers in this State that could not have  
2 been accomplished through alternative means that are less  
3 restrictive.

4 3. The Attorney General shall approve an agreement or policy  
5 submitted pursuant to subsection 2 if the Attorney General  
6 determines:

7 (a) The agreement or policy results in an increase in the welfare  
8 of consumers in this State;

9 (b) Such increase in the welfare could not have been  
10 accomplished through alternative means that are less restrictive; and

11 (c) The agreement or policy does not constitute a contract,  
12 combination or conspiracy in restraint of trade as described in  
13 subsection 1 of NRS 598A.060, as amended by section 15 of this  
14 act.

15 4. The Attorney General shall, on or before June 1, 2023,  
16 provide written notice of the approval or disapproval of an  
17 agreement or policy submitted pursuant to subsection 2 to each  
18 party to the agreement or policy. If the Attorney General  
19 disapproves an agreement or policy, the Attorney General shall  
20 include in the written notice the reasons for the disapproval.

21 5. The decision of the Attorney General to disapprove an  
22 agreement or policy pursuant to this section is a final decision for  
23 the purposes of judicial review.

24 6. Any provision of an agreement or policy specified in  
25 subsection 1 of section 12 of this act shall be deemed void and  
26 unenforceable on June 1, 2023, unless the agreement or policy has  
27 been approved by the Attorney General in accordance with the  
28 provisions of this section.

29 7. The parties to any agreement or policy approved pursuant to  
30 this section shall, on or before June 1 of each year in which the  
31 agreement or policy is in effect, submit to the Attorney General a  
32 copy of the approved agreement or policy.

33 8. As used in this section, "health care service" has the  
34 meaning ascribed to it in NRS 598A.020, as amended by section 13  
35 of this act.

36 **Sec. 25.** NRS 613.195 is hereby repealed.



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**TEXT OF REPEALED SECTION**

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**613.195 Noncompetition covenants: Limitations; enforceability; revision by court.**

1. A noncompetition covenant is void and unenforceable unless the noncompetition covenant:

- (a) Is supported by valuable consideration;
- (b) Does not impose any restraint that is greater than is required for the protection of the employer for whose benefit the restraint is imposed;
- (c) Does not impose any undue hardship on the employee; and
- (d) Imposes restrictions that are appropriate in relation to the valuable consideration supporting the noncompetition covenant.

2. A noncompetition covenant may not restrict a former employee of an employer from providing service to a former customer or client if:

- (a) The former employee did not solicit the former customer or client;
- (b) The customer or client voluntarily chose to leave and seek services from the former employee; and
- (c) The former employee is otherwise complying with the limitations in the covenant as to time, geographical area and scope of activity to be restrained, other than any limitation on providing services to a former customer or client who seeks the services of the former employee without any contact instigated by the former employee.

↳ Any provision in a noncompetition covenant which violates the provisions of this subsection is void and unenforceable.

3. An employer in this State who negotiates, executes or attempts to enforce a noncompetition covenant that is void and unenforceable under this section does not violate the provisions of NRS 613.200.

4. If the termination of the employment of an employee is the result of a reduction of force, reorganization or similar restructuring of the employer, a noncompetition covenant is only enforceable during the period in which the employer is paying the employee's salary, benefits or equivalent compensation, including, without limitation, severance pay.

5. If an employer brings an action to enforce a noncompetition covenant and the court finds the covenant is supported by valuable consideration but contains limitations as to time, geographical area



or scope of activity to be restrained that are not reasonable, impose a greater restraint than is necessary for the protection of the employer for whose benefit the restraint is imposed and impose undue hardship on the employee, the court shall revise the covenant to the extent necessary and enforce the covenant as revised. Such revisions must cause the limitations contained in the covenant as to time, geographical area and scope of activity to be restrained to be reasonable and to impose a restraint that is not greater than is necessary for the protection of the employer for whose benefit the restraint is imposed.

6. As used in this section:

(a) “Employer” means every person having control or custody of any employment, place of employment or any employee.

(b) “Noncompetition covenant” means an agreement between an employer and employee which, upon termination of the employment of the employee, prohibits the employee from pursuing a similar vocation in competition with or becoming employed by a competitor of the employer.

