

Amendment No. 239

Assembly Amendment to Assembly Bill No. 47	(BDR 52-425)
<b>Proposed by:</b> Assembly Committee on Commerce and Labor	
<b>Amends:</b> Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.





ASSEMBLY BILL NO. 47—COMMITTEE  
ON COMMERCE AND LABOR

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 18, 2020

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.

AN ACT relating to unfair trade practices; requiring certain notice to be provided to the Attorney General before the consummation of ~~feertain 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;~~ **certain transactions involving a group practice or health carrier;** revising provisions relating to proceedings instituted by the Attorney General under the Nevada Unfair Trade Practice Act; **revising provisions relating to noncompetition covenants;** providing ~~penalties;~~ **a penalty;** and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

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

**Sections 2-10 of this bill impose certain notification requirements relating to certain transactions involving health carriers or certain business entities consisting of health care practitioners, which are designated by section 4.2 of this bill as “group practices.” Section 6.5 of this bill requires any party conducting business in this State who is a party to a reportable health care or health carrier transaction to, at least 30 days before the consummation of the transaction, submit to the Attorney General a notification with certain specified information relating to the transaction. Section 5.6 of this bill defines “reportable health care or health carrier transaction” to generally mean a transaction that: (1) results in a material change to the business or corporate structure of a group practice or health carrier; and (2) causes, as a result of the transaction, a group practice**

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17 or health carrier to provide within a geographic market 50 percent or more of any  
18 health care service or health carrier service.

19 The federal Hart-Scott-Rodino Antitrust Improvements Act of 1976 requires certain  
20 persons who intend to engage in certain mergers or acquisitions to file a notification with the  
21 Federal Trade Commission and the United States Department of Justice. (15 U.S.C. § 18a)  
22 ~~[Sections 2-10 of this bill impose similar notification requirements for certain persons and~~  
23 ~~transactions in this State. Section 6 of this bill requires all parties to an intended merger or~~  
24 ~~acquisition to file a notice with the Attorney General at least 180 days before the merger or~~  
25 ~~acquisition if any party to the transaction has had a certain amount of gross sales to consumers in~~  
26 ~~this State and the transaction involves a certain amount of voting securities, assets and other~~  
27 ~~interests.] Section 7 of this bill requires a person who is required to file such a notification~~  
28 ~~under the federal Hart-Scott-Rodino Antitrust Improvements Act of 1976] regarding any~~  
29 transaction involving any assets of a group practice or health carrier in this State to  
30 simultaneously submit a copy of the filing to the Attorney General. **Section 8** of this bill  
31 ~~authorizes] provides that nothing in the provisions of sections 2-10 limits the power of~~  
32 the Attorney General to issue written investigative demands ~~[upon a party to the intended~~  
33 ~~merger or acquisition within 30 days after receiving a notice.] in connection with an~~  
34 investigation under the Nevada Unfair Trade Practice Act. Section 9 of this bill provides  
35 that any information received by the Attorney General pursuant to sections 2-10 is  
36 confidential and authorized to be disclosed only under certain circumstances. Section 10  
37 of this bill provides for the imposition of a civil penalty of up to \$1,000 per day for willful  
38 violations of the ~~[notice]~~ notification requirements set forth in **sections 2-10**.

39 ~~[Existing law allows certain noncompetition agreements between an employer and~~  
40 ~~employee to be enforceable under certain circumstances. (NRS 613.195) Section 11 of this~~  
41 ~~bill makes it unlawful to enter into an agreement which restrains a natural person from~~  
42 ~~engaging in a lawful profession, trade or business of any kind. Section 11 sets forth certain~~  
43 ~~exceptions to this prohibition for certain agreements involving: (1) the sale of a business; (2)~~  
44 ~~the dissolution of or dissociation from a partnership; or (3) the dissolution of or termination of~~  
45 ~~an interest in a limited liability company. Section 25 of this bill makes a conforming change~~  
46 ~~to eliminate the provision in existing law relating to such agreements because section 11 now~~  
47 ~~governs such agreements;~~

48 ~~— Section 12 of this bill requires a person who wishes to enter into certain agreements or~~  
49 ~~adopt certain policies related to health care to submit the proposed agreement or policy to the~~  
50 ~~Attorney General for approval if it contains certain provisions that: (1) relate to the exclusivity~~  
51 ~~of a provider or provider organization; (2) prohibit certain purchases and sales of health care~~  
52 ~~services; or (3) restrict the ability of a health carrier to encourage a person to obtain a health~~  
53 ~~care service from certain hospitals or hospital systems. Section 12 requires the Attorney~~  
54 ~~General to approve the proposed agreement or policy if he or she determines that: (1) the~~  
55 ~~agreement or policy is likely to result in an increase in the welfare of consumers; (2) such~~  
56 ~~increase cannot be accomplished through alternative means that are less restrictive; and (3) the~~  
57 ~~agreement or policy does not constitute a contract, combination or conspiracy in restraint of~~  
58 ~~trade. Under section 12, any of the previously described provisions in any agreement or policy~~  
59 ~~are void and unenforceable unless the agreement or policy is approved by the Attorney~~  
60 ~~General. Section 24 of this bill requires all agreements or policies containing such provisions~~  
61 ~~which are in effect on October 1, 2021, to be submitted to the Attorney General by June 1,~~  
62 ~~2022. If the Attorney General does not approve the agreement or policy before June 1, 2023,~~  
63 ~~section 24 provides that such provisions are void and unenforceable on that date.~~

64 ~~— Section 15 of this bill provides that certain agreements or policies that restrict the ability~~  
65 ~~of a provider to provide a health care service or restrict the amount of a health care service~~  
66 ~~provided within certain geographic areas constitute a contract, combination or conspiracy in~~  
67 ~~restraint of trade under certain circumstances.]~~

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

73 Existing law requires a state agency to provide to the Executive Director of the  
74 Patient Protection Commission such information as the Executive Director may request.  
75 (NRS 439.914) Sections 17.5 and 21.5 of this bill provide that the Attorney General is not

76 required to provide to the Executive Director information obtained by the Attorney  
 77 General under the Nevada Unfair Trade Practice Act.

78 Existing law provides that a noncompetition covenant is void and unenforceable  
 79 unless the noncompetition covenant meets certain requirements. Under existing law, a  
 80 noncompetition covenant is prohibited from restricting a former employee from  
 81 providing service to a former customer or client under certain circumstances. (NRS  
 82 613.195) Section 22.5 of this bill also prohibits an employer from bringing an action to  
 83 restrict a former employee from providing service to a former customer or client under  
 84 certain circumstances. Section 22.5 also prohibits a noncompetition covenant from  
 85 applying to an employee who is paid solely on an hourly wage basis, exclusive of any tips  
 86 or gratuities. Finally, section 22.5 requires a court, in an action to enforce or challenge a  
 87 noncompetition covenant, to award reasonable attorney’s fees and costs to the employee  
 88 if the court finds that the noncompetition covenant applies to an employee paid on an  
 89 hourly wage basis or that the employer has impermissibly restricted or attempted to  
 90 restrict the employee from providing services to a former customer or client.

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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 adding thereto the  
 2 provisions set forth as sections 2 to 12, inclusive, of this act.

3 **Sec. 2.** *As used in sections 2 to 10, inclusive, of this act, unless the context*  
 4 *otherwise requires, the word and terms defined in sections ~~[3, 4 and 5]~~ 3.5 to 5.9,*  
 5 *inclusive, of this act have the meanings ascribed to them in those sections.*

6 **Sec. 3.** ~~["Acquisition" means an agreement, arrangement or activity, the~~  
 7 ~~consummation of which results in a person acquiring, directly or indirectly, the~~  
 8 ~~control of another person. The term includes, without limitation, the acquiring of~~  
 9 ~~a voting security, asset, capital stock, membership interest or equity interest.]~~  
 10 **(Deleted by amendment.)**

11 **Sec. 3.5.** *"Affiliation" means an agreement, arrangement or activity, the*  
 12 *consummation of which results in:*

13 1. A group practice or health carrier having control of another group  
 14 practice or health carrier; or

15 2. A group practice or health carrier coming under common ownership  
 16 with another group practice or health carrier.

17 **Sec. 4.** *"Control" means the possession, direct or indirect, of the power to*  
 18 *direct or cause the direction of the management and policies of a person ~~+~~,*  
 19 *whether through the ownership of voting securities, by a contract other than a*  
 20 *commercial contract for goods or nonmanagement services or otherwise, unless*  
 21 *the power is the result of an official position with or corporate office held by the*  
 22 *person.*

23 **Sec. 4.2.** 1. "Group practice" means two or more practitioners who are  
 24 legally organized in a partnership, professional corporation, limited liability  
 25 company formed to render professional services, medical foundation, nonprofit  
 26 corporation, faculty practice plan or other similar entity:

27 (a) In which each practitioner who is a member of the group provides  
 28 substantially the full range of services that the practitioner routinely provides,  
 29 including, without limitation, medical care, consultation, diagnosis or treatment,  
 30 through the joint use of shared office space, facilities, equipment or personnel;

31 (b) For which substantially all of the services of the practitioners who are  
 32 members of the group practice are billed in the name of the group practice and  
 33 amounts so received are treated as receipts of the group; or

1 (c) In which the overhead expenses of, and the income from, the group are  
2 distributed in accordance with methods determined by members of the group.

3 2. The term includes any entity that otherwise meets the definition whose  
4 shareholders, partners or owners include single-practitioner professional  
5 corporations, limited liability companies formed to render professional services or  
6 other entities to which beneficial owners are individual practitioners.

7 Sec. 4.4. "Health care service" means any service for the diagnosis,  
8 prevention, treatment, care or relief of a health condition, illness, injury or  
9 disease.

10 Sec. 4.6. "Health carrier" has the meaning ascribed to it in NRS 695G.024.

11 Sec. 4.8. "Health carrier service" means any service provided by a health  
12 carrier.

13 Sec. 5. ~~["Merger" means a consolidation of two or more business entities.~~  
14 ~~The term includes, without limitation, two or more business entities joining~~  
15 ~~through a common parent business entity and two or more business entities~~  
16 ~~forming a new business entity.] (Deleted by amendment.)~~

17 Sec. 5.3. "Practitioner" means a physician licensed pursuant to chapter  
18 630 or 633 of NRS, physician assistant, licensed nurse, dispensing optician,  
19 optometrist, practitioner of respiratory care, registered physical therapist,  
20 occupational therapist, licensed psychologist or perfusionist.

21 Sec. 5.6. 1. "Reportable health care or health carrier transaction" means  
22 any transaction that:

23 (a) Results in a material change to the business or corporate structure of a  
24 group practice or health carrier; and

25 (b) As a result of the transaction, would cause a group practice or health  
26 carrier to provide within a geographic market 50 percent or more of any health  
27 care service, including, without limitation, a health care service involving a  
28 specialty, or any health carrier service.

29 2. The term does not include a transaction involving business entities  
30 which:

31 (a) Are under common ownership; or

32 (b) Have a contracting relationship that was established before October 1,  
33 2021.

34 3. As used in this section, a "material change to the business or corporate  
35 structure of a group practice or health carrier" includes, without limitation:

36 (a) The merger, consolidation or affiliation of a group practice or health  
37 carrier with another group practice or health carrier;

38 (b) The acquisition of all or substantially all of:

39 (1) The properties and assets of a group practice; or

40 (2) The capital stock, membership interests or other equity interest of a  
41 group practice or health carrier;

42 (c) The employment of all or substantially all of the practitioners in a group  
43 practice; and

44 (d) The acquisition of one or more insolvent group practices.

45 Sec. 5.9. "Specialty" means a subarea of medical practice that is  
46 recognized by the American Board of Medical Specialties.

47 Sec. 6. ~~1. At least 180 days before the consummation of a merger or~~  
48 ~~acquisition, each person who is a party to the intended merger or acquisition~~  
49 ~~shall submit a notice to the Attorney General if:~~

50 ~~(a) Any person who is a party to the intended merger or acquisition is a~~  
51 ~~person whose gross sales of commodities or services to consumers in this State~~  
52 ~~has exceeded \$5,000,000 in any of the 3 years immediately preceding the merger~~  
53 ~~or acquisition; and~~

~~1 (b) The aggregate value of the voting securities, assets and other interests to  
2 be acquired or merged exceeds \$25,000,000.~~

~~3 2. The notice required pursuant to subsection 1 must be in the form  
4 prescribed by the Attorney General and include, without limitation:~~

~~5 (a) The name and business address of each party to the intended merger or  
6 acquisition;~~

~~7 (b) A brief description of the nature and purpose of the intended merger or  
8 acquisition; and~~

~~9 (c) The anticipated effective date of the intended merger or acquisition.~~

~~10 3. The provisions of subsection 2 do not prohibit a person from voluntarily  
11 providing additional information to the Attorney General.} (Deleted by  
12 amendment.)~~

13 Sec. 6.5. 1. Except as otherwise provided in subsection 2, any person  
14 conducting business in this State who is a party to a reportable health care or  
15 health carrier transaction shall, at least 30 days before the consummation of the  
16 reportable health care or health carrier transaction, submit to the Attorney  
17 General a notification on a form prescribed by the Attorney General. The  
18 notification must contain the following information, to the extent such  
19 information is applicable:

20 (a) A brief description of the nature of the proposed relationship among the  
21 parties to the proposed reportable health care or health carrier transaction;

22 (b) The names and specialties of each practitioner working for the group  
23 practice that is the subject of the reportable health care or health carrier  
24 transaction and who is anticipated to work with the resulting group practice  
25 following the effective date of the transaction;

26 (c) The names of the business entities that are anticipated to provide health  
27 care services or health carrier services following the effective date of the  
28 reportable health care or health carrier transaction;

29 (d) An identification of each anticipated location where health care services  
30 or health carrier services are to be provided following the effective date of the  
31 reportable health care or health carrier transaction;

32 (e) A description of the services to be provided by practitioners at each  
33 location identified pursuant to paragraph (d); and

34 (f) The primary service area to be served by each location identified pursuant  
35 to paragraph (d).

36 2. If a person who is a party to a reportable health care or health carrier  
37 transaction is required to:

38 (a) Submit a copy of a filing to the Attorney General pursuant to section 7 of  
39 this act regarding the transaction, the copy of the filing submitted pursuant to  
40 section 7 of this act satisfies the requirement for notification pursuant to  
41 subsection 1.

42 (b) Submit a notification to the Commissioner of Insurance pursuant to NRS  
43 692C.363 regarding the transaction, the person may satisfy the requirement for  
44 notification pursuant to subsection 1 by simultaneously submitting to the  
45 Attorney General a copy of the notification submitted to the Commissioner of  
46 Insurance.

47 Sec. 7. 1. Any person conducting business in this State that files a  
48 notification with the Federal Trade Commission or the United States Department  
49 of Justice pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of  
50 1976, 15 U.S.C. § 18a ~~or~~ regarding a transaction that involves any assets of a  
51 group practice or health carrier in this State shall simultaneously submit a copy  
52 of the filing to the Attorney General.

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

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

11           ~~2. Nothing in [this section] sections 2 to 10, inclusive, of this act limits the~~  
12 ~~power of the Attorney General to issue an investigative demand in connection~~  
13 ~~with an investigation of a suspected violation of the provisions of this chapter~~  
14 ~~pursuant to NRS 598A.100, [outside of the time period specified in subsection 1.]~~

15           Sec. 9. ~~Any~~ All information received by the Attorney General pursuant to  
16 sections 2 to 10, inclusive, of this act must be kept confidential in the same  
17 manner and to the same extent as required in NRS 598A.110.

18           Sec. 10. 1. A person who willfully violates any provision of sections 2 to  
19 10, inclusive, of this act is subject to a civil penalty not to exceed \$1,000 for each  
20 day of the violation.

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

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

27           ~~2. A violation of this section constitutes a prohibited act under NRS~~  
28 ~~598A.060.~~

29           ~~3. The provisions of this section do not prohibit:~~

30           ~~(a) A person who sells a business from agreeing with the buyer to refrain~~  
31 ~~from carrying on a similar business in a specified geographic area in which the~~  
32 ~~business is sold or in which the seller has been carrying on business, so long as~~  
33 ~~the buyer, or any person deriving title to the business or its goodwill from the~~  
34 ~~buyer, carries on a like business therein.~~

35           ~~(b) A member of a partnership, upon or in anticipation of the dissolution of~~  
36 ~~the partnership or dissociation from the partnership, from agreeing that the~~  
37 ~~member will not carry on a similar business within a specified geographic area~~  
38 ~~where the business of the partnership was regularly carried on, so long as any~~  
39 ~~other member of the partnership, or any person deriving title to the business or its~~  
40 ~~goodwill from such a member, carries on a like business therein.~~

41           ~~(c) A member of a limited liability company, upon or in anticipation of the~~  
42 ~~dissolution of the limited liability company or the termination of the interest of~~  
43 ~~the member in the company, from agreeing that the member will not carry on a~~  
44 ~~similar business within a specified geographic area where the business of the~~  
45 ~~limited liability company was regularly carried on, so long as any other member~~  
46 ~~of the limited liability company, or any person deriving title to the business or its~~  
47 ~~goodwill, carries on a like business therein.~~

48           ~~4. For the purposes of paragraph (a) of subsection 3, a person "sells a~~  
49 ~~business" when the person sells:~~

50           ~~(a) The goodwill of a business;~~

51           ~~(b) All of the person's ownership interest in a business;~~

52           ~~(c) All or substantially all of the operating assets and goodwill of a business;~~



~~1 (d) All or substantially all of the operating assets and goodwill of a  
2 subsidiary of the person; or~~

~~3 (e) All of the person's ownership interest in a subsidiary of the person.]~~  
4 **(Deleted by amendment.)**

5 **Sec. 12. ~~[1. Any provision in an:~~**

~~6 (a) Agreement between a provider or provider organization and hospital or  
7 hospital system which:~~

~~8 (1) Grants the provider or provider organization the right to be the  
9 exclusive provider of a specified health care service for the hospital or hospital  
10 system; or~~

~~11 (2) Prohibits a provider or provider organization from providing a  
12 specified health care service for a competitor of the hospital or hospital system;~~

~~13 (b) Agreement or policy of a provider organization, hospital, hospital system  
14 or health carrier that prohibits:~~

~~15 (1) A hospital, hospital system or health carrier from purchasing a health  
16 care service from a provider organization; or~~

~~17 (2) A provider organization from selling a health care service to a  
18 hospital, hospital system or health carrier; or~~

~~19 (c) Agreement between a hospital or hospital system and a health carrier that  
20 restricts the ability of the health carrier to encourage a person to obtain a health  
21 care service from a competitor of the hospital or hospital system;~~

~~22 is void and unenforceable unless the agreement or policy is approved by the  
23 Attorney General in accordance with this section.~~

~~24 2. A person who wishes to enter into an agreement or adopt a policy  
25 containing a provision specified in subsection 1 shall submit the proposed  
26 agreement or policy to the Attorney General for approval. The proposed  
27 agreement or policy must be accompanied by the following information:~~

~~28 (a) The name and business address of each party to the proposed agreement  
29 or policy;~~

~~30 (b) An identification of each location at which any party to the agreement or  
31 policy provides health care services;~~

~~32 (c) The anticipated date that the proposed agreement or policy will become  
33 effective; and~~

~~34 (d) Such information as the Attorney General requires to demonstrate that  
35 the proposed agreement or policy will result in an increase in the welfare of  
36 consumers that cannot be accomplished through alternative means that are less  
37 restrictive.~~

~~38 3. The Attorney General shall approve a proposed agreement or policy  
39 submitted pursuant to subsection 2 if the Attorney General determines that:~~

~~40 (a) The agreement or policy is likely to result in an increase in the welfare of  
41 consumers;~~

~~42 (b) Such increase in the welfare of consumers cannot be accomplished  
43 through alternative means that are less restrictive; and~~

~~44 (c) The agreement or policy does not constitute a contract, combination or  
45 conspiracy in restraint of trade as described in subsection 1 of NRS 598A.060.~~

~~46 4. The Attorney General shall provide written notice of the approval or  
47 disapproval of a proposed agreement or policy to each party to the agreement or  
48 policy within 180 days after its submission pursuant to subsection 2. If the  
49 Attorney General disapproves a proposed agreement or policy, the Attorney  
50 General shall include in the written notice the reasons for the disapproval.~~

~~51 5. The decision of the Attorney General to disapprove a proposed agreement  
52 or policy pursuant to this section is a final decision for the purposes of judicial  
53 review.~~

~~6. Each party to any agreement or policy approved pursuant to this section shall, on or before June 1 of each year in which the agreement or policy is in effect, submit to the Attorney General a copy of the approved agreement or policy. (Deleted by amendment.)~~

**Sec. 13.** ~~[NRS 598A.020 is hereby amended to read as follows:~~

~~598A.020 When used in this chapter, unless the context otherwise requires:~~

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

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

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

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

~~5. "Hospital system" means:~~

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

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

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

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

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

~~[3.] 9. "Third party administrator" means a person that administers payments for health care services on behalf of a client in exchange for an administrative fee.~~

~~10. "Trade or commerce" includes all economic activity involving or relating to any commodity or service. (Deleted by amendment.)~~

**Sec. 14.** ~~[NRS 598A.040 is hereby amended to read as follows:~~

~~598A.040 The provisions of this chapter do not apply to:~~

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

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

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

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

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

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

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

~~5. Restrictive covenants [;~~

~~1 (a) Which are part of a contract of sale for a business and which bar the seller  
2 of the business from competing with the purchaser of the business sold within a  
3 reasonable market area for a reasonable period of time; or~~

~~4 (b) Which] *which* are part of a commercial shopping center lease and which  
5 bar the parties from permitting or engaging in the furnishing of certain services or  
6 the sale of certain commodities within the commercial shopping center where such  
7 leased premises are located.] **(Deleted by amendment.)**~~

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

~~9 598A.060 1. Every activity enumerated in this subsection constitutes a  
10 contract, combination or conspiracy in restraint of trade, and it is unlawful to  
11 conduct any part of any such activity in this State:~~

~~12 (a) Price fixing, which consists of raising, depressing, fixing, pegging or  
13 stabilizing the price of any commodity or service, and which includes, but is not  
14 limited to:~~

~~15 (1) Agreements among competitors to depress prices at which they will  
16 buy essential raw material for the end product.~~

~~17 (2) Agreements to establish prices for commodities or services.~~

~~18 (3) Agreements to establish uniform discounts, or to eliminate discounts.~~

~~19 (4) Agreements between manufacturers to price a premium commodity a  
20 specified amount above inferior commodities.~~

~~21 (5) Agreements not to sell below cost.~~

~~22 (6) Agreements to establish uniform trade-in allowances.~~

~~23 (7) Establishment of uniform cost surveys.~~

~~24 (8) Establishment of minimum markup percentages.~~

~~25 (9) Establishment of single or multiple basing point systems for  
26 determining the delivered price of commodities.~~

~~27 (10) Agreements not to advertise prices.~~

~~28 (11) Agreements among competitors to fix uniform list prices as a place to  
29 start bargaining.~~

~~30 (12) Bid rigging, including the misuse of bid depositories, foreclosures of  
31 competitive activity for a period of time, rotation of jobs among competitors,  
32 submission of identical bids, and submission of complementary bids not intended to  
33 secure acceptance by the customer.~~

~~34 (13) Agreements to discontinue a product, or agreements with anyone  
35 engaged in the manufacture of competitive lines to limit size, styles or quantities of  
36 items comprising the lines.~~

~~37 (14) Agreements to restrict volume of production.~~

~~38 (b) Division of markets, consisting of agreements between competitors to  
39 divide territories and to refrain from soliciting or selling in certain areas.~~

~~40 (c) Allocation of customers, consisting of agreements not to sell to specified  
41 customers of a competitor.~~

~~42 (d) Tying arrangements, consisting of contracts in which the seller or lessor  
43 conditions the sale or lease of commodities or services on the purchase or leasing of  
44 another commodity or service.~~

~~45 (e) Monopolization of trade or commerce in this State, including, without  
46 limitation, attempting to monopolize or otherwise combining or conspiring to  
47 monopolize trade or commerce in this State.~~

~~48 (f) *Except as otherwise provided in subsection 2, entering into agreements or  
49 policies that restrict:*~~

~~50 (1) *The ability of a provider to provide a health care service to any person  
51 within a geographic area in this State delineated by the United States Office of  
52 Management and Budget as a core based statistical area; or*~~

~~(2) The amount of a health care service provided within a geographic area in this State delineated by the United States Office of Management and Budget as a core-based statistical area,~~

~~→ if, within that area, there is a sole provider of the health care service and there is no reasonable substitute for the health care service.~~

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

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

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

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

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

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

~~(b) Prevent a person who is engaged in commerce in this State from forming a subsidiary corporation or other business organization and owning and holding all or part of the stock or equity interest of that corporation or organization.] (Deleted by amendment.)~~

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

598A.070 1. The Attorney General shall:

(a) Enforce the provisions of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec. 17.5. NRS 598A.110 is hereby amended to read as follows:**

598A.110 1. Any procedure, testimony taken, document or other tangible evidence produced, or answer made under NRS 598A.100 shall be kept confidential by the Attorney General prior to the ~~institution of~~ **entry of a protective order in** an action brought under this chapter for the alleged violation of the provisions of this chapter under investigation, unless:

~~(a)~~ **(a)** Confidentiality is waived by the person upon whom the written investigative demand is made or pursuant to NRS 239.0115;

~~(b)~~ **(b)** Disclosure is authorized by the district court; or

~~(c)~~ **(c)** Disclosure is made pursuant to NRS 598A.080.

**2. The Attorney General is not required to provide the information described in subsection 1 to the Executive Director of the Patient Protection Commission upon a request of the Executive Director pursuant to NRS 439.914.**

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

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

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

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

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

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

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

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

(1) Statistical or sampling methods;

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

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

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

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

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

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

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

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

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

16 239.010 1. Except as otherwise provided in this section and NRS 1.4683,  
17 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516,  
18 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150,  
19 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413,  
20 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345,  
21 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260,  
22 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382,  
23 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007,  
24 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050,  
25 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129,  
26 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070,  
27 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662,  
28 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140,  
29 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475,  
30 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 226.300,  
31 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300,  
32 239.0105, 239.0113, 239.014, 239B.030, 239B.040, 239B.050, 239C.140,  
33 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030,  
34 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130,  
35 250.140, 250.150, 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105,  
36 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755,  
37 281A.780, 284.4068, 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387,  
38 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870,  
39 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351,  
40 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420,  
41 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240,  
42 360.247, 360.255, 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160,  
43 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008,  
44 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501,  
45 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035, 391.0365,  
46 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325,  
47 392.327, 392.335, 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447,  
48 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115,  
49 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 414.280, 416.070, 422.2749,  
50 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205,  
51 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,  
52 432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207, 439.4941, 439.840,  
53 439.914, 439B.420, 439B.754, 439B.760, 440.170, 441A.195, 441A.220,

1 441A.230, 442.330, 442.395, 442.735, 442.774, 445A.665, 445B.570, 445B.7773,  
2 447.345, 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188, 453.164,  
3 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,  
4 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790,  
5 467.1005, 480.535, 480.545, 480.935, 480.940, 481.063, 481.091, 481.093,  
6 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469,  
7 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160,  
8 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210,  
9 604A.303, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,  
10 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110, 624.265,  
11 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069,  
12 630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125,  
13 632.3415, 632.405, 633.283, 633.301, 633.4715, 633.524, 634.055, 634.214,  
14 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485,  
15 639.570, 640.075, 640A.220, 640B.730, 640C.580, 640C.600, 640C.620,  
16 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.221, 641.325, 641A.191,  
17 641A.262, 641A.289, 641B.170, 641B.282, 641B.460, 641C.760, 641C.850,  
18 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060,  
19 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645G.510, 645H.320,  
20 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228,  
21 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133, 669.275,  
22 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370,  
23 677.243, 678A.470, 678C.710, 678C.800, 679B.122, 679B.124, 679B.152,  
24 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260,  
25 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306,  
26 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696,  
27 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420,  
28 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.325, 706.1725,  
29 706A.230, 710.159, 711.600, *and section 9 of this act*, sections 35, 38 and 41 of  
30 chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of  
31 Nevada 2013 and unless otherwise declared by law to be confidential, all public  
32 books and public records of a governmental entity must be open at all times during  
33 office hours to inspection by any person, and may be fully copied or an abstract or  
34 memorandum may be prepared from those public books and public records. Any  
35 such copies, abstracts or memoranda may be used to supply the general public with  
36 copies, abstracts or memoranda of the records or may be used in any other way to  
37 the advantage of the governmental entity or of the general public. This section does  
38 not supersede or in any manner affect the federal laws governing copyrights or  
39 enlarge, diminish or affect in any other manner the rights of a person in any written  
40 book or record which is copyrighted pursuant to federal law.

41 2. A governmental entity may not reject a book or record which is  
42 copyrighted solely because it is copyrighted.

43 3. A governmental entity that has legal custody or control of a public book or  
44 record shall not deny a request made pursuant to subsection 1 to inspect or copy or  
45 receive a copy of a public book or record on the basis that the requested public  
46 book or record contains information that is confidential if the governmental entity  
47 can redact, delete, conceal or separate, including, without limitation, electronically,  
48 the confidential information from the information included in the public book or  
49 record that is not otherwise confidential.

50 4. If requested, a governmental entity shall provide a copy of a public record  
51 in an electronic format by means of an electronic medium. Nothing in this  
52 subsection requires a governmental entity to provide a copy of a public record in an  
53 electronic format or by means of an electronic medium if:



1 (a) The public record:

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

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

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

6 (1) Give access to proprietary software; or

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

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

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

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

18 **Sec. 21.5. NRS 439.914 is hereby amended to read as follows:**

19 439.914 1. The Governor shall appoint the Executive Director of the  
20 Commission within the Office of the Governor. The Executive Director:

21 (a) Must have experience in health care or health insurance;

22 (b) Is in the unclassified service of the State; and

23 (c) Serves at the pleasure of the Governor.

24 2. The Executive Director shall:

25 (a) Perform the administrative duties of the Commission and such other duties  
26 as are directed by the Commission; and

27 (b) To the extent that money is available for this purpose, appoint employees to  
28 assist the Executive Director in carrying out the duties prescribed in paragraph (a).  
29 Such employees serve at the pleasure of the Executive Director and are in the  
30 unclassified service of the State.

31 3. The Executive Director may request any information maintained by a state  
32 agency that is necessary for the performance of his or her duties, including, without  
33 limitation, information that is otherwise declared confidential by law. ~~[(c)]~~ **Except**  
34 **as otherwise provided in NRS 598A.110, to** the extent authorized by the Health  
35 Insurance Portability and Accountability Act of 1996, Public Law 104-191, and the  
36 regulations adopted pursuant thereto, an agency from which such information is  
37 requested shall provide the information to the Executive Director.

38 4. The Executive Director:

39 (a) Shall maintain any information obtained pursuant to subsection 3 under the  
40 same conditions as the information is maintained by the agency that provided the  
41 information; and

42 (b) Except as otherwise provided in this paragraph, shall not disclose any  
43 confidential information obtained pursuant to subsection 3 to any other person or  
44 entity, including, without limitation, the Commission or a member thereof. The  
45 Executive Director may disclose or publish aggregated information in a manner that  
46 does not reveal the identity of any person.

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

48 ~~450.440 1. Except as otherwise provided in subsection 2, the board of~~  
49 ~~hospital trustees shall organize a staff of physicians composed of each regular~~  
50 ~~practicing physician, podiatric physician and dentist in the county in which the~~  
51 ~~hospital is located who requests staff membership and meets the standards set forth~~  
52 ~~in the regulations prescribed by the board of hospital trustees.~~



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

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

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

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

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

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

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

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

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

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

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

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

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

~~(a) Establishment of clinic or group practice;~~

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

~~(c) Professional fee billing; and~~

~~(d) The opportunity to rent office space in facilities owned or operated by the hospital, as the space is available, if this opportunity is offered to all members of the staff on the same terms and conditions.] (Deleted by amendment.)~~

**Sec. 22.5. NRS 613.195 is hereby amended to read as follows:**

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

1 (a) Is supported by valuable consideration;

2 (b) Does not impose any restraint that is greater than is required for the  
3 protection of the employer for whose benefit the restraint is imposed;

4 (c) Does not impose any undue hardship on the employee; and

5 (d) Imposes restrictions that are appropriate in relation to the valuable  
6 consideration supporting the noncompetition covenant.

7 2. A noncompetition covenant may not restrict , and an employer may not  
8 bring an action to restrict, a former employee of an employer from providing  
9 service to a former customer or client if:

10 (a) The former employee did not solicit the former customer or client;

11 (b) The customer or client voluntarily chose to leave and seek services from  
12 the former employee; and

13 (c) The former employee is otherwise complying with the limitations in the  
14 covenant as to time, geographical area and scope of activity to be restrained, other  
15 than any limitation on providing services to a former customer or client who seeks  
16 the services of the former employee without any contact instigated by the former  
17 employee.

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

20 3. A noncompetition covenant may not apply to an employee who is paid  
21 solely on an hourly wage basis, exclusive of any tips or gratuities.

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

25 ~~[4.]~~ 5. If the termination of the employment of an employee is the result of a  
26 reduction of force, reorganization or similar restructuring of the employer, a  
27 noncompetition covenant is only enforceable during the period in which the  
28 employer is paying the employee's salary, benefits or equivalent compensation,  
29 including, without limitation, severance pay.

30 ~~[5.]~~ 6. If an employer brings an action to enforce a noncompetition covenant  
31 or an employee brings an action to challenge a noncompetition covenant and the  
32 court finds the covenant is supported by valuable consideration but contains  
33 limitations as to time, geographical area or scope of activity to be restrained that are  
34 not reasonable, ~~[impose]~~ imposes a greater restraint than is necessary for the  
35 protection of the employer for whose benefit the restraint is imposed ~~[and impose]~~  
36 or imposes undue hardship on the employee, the court shall revise the covenant to  
37 the extent necessary and enforce the covenant as revised. Such revisions must cause  
38 the limitations contained in the covenant as to time, geographical area and scope of  
39 activity to be restrained to be reasonable, to not impose undue hardship on the  
40 employee and to impose a restraint that is not greater than is necessary for the  
41 protection of the employer for whose benefit the restraint is imposed.

42 ~~[6.]~~ 7. If an employer brings an action to enforce a noncompetition  
43 covenant or an employee brings an action to challenge a noncompetition  
44 covenant and the court finds that the noncompetition covenant applies to an  
45 employee described in subsection 3 or that the employer has restricted or  
46 attempted to restrict a former employee in the manner described in subsection 2,  
47 the court shall award the employee reasonable attorney's fees and costs. Nothing  
48 in this subsection shall be construed as prohibiting a court from otherwise  
49 awarding attorney's fees to a prevailing party pursuant to NRS 18.010.

50 8. As used in this section:

51 (a) "Employer" means every person having control or custody of any  
52 employment, place of employment or any employee.

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

5 **Sec. 23.** ~~[NRS 613.200 is hereby amended to read as follows:~~

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

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

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

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

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

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

36 ~~— (a) The name and business address of each party to the agreement or policy;~~

37 ~~— (b) An identification of each location at which any party to the agreement or~~  
38 ~~policy provides health care services; and~~

39 ~~— (c) Such information as the Attorney General requires to demonstrate that the~~  
40 ~~proposed agreement or policy results in an increase in the welfare of consumers in~~  
41 ~~this State that could not have been accomplished through alternative means that are~~  
42 ~~less restrictive.~~

43 ~~— 3. The Attorney General shall approve an agreement or policy submitted~~  
44 ~~pursuant to subsection 2 if the Attorney General determines:~~

45 ~~— (a) The agreement or policy results in an increase in the welfare of consumers~~  
46 ~~in this State;~~

47 ~~— (b) Such increase in the welfare could not have been accomplished through~~  
48 ~~alternative means that are less restrictive; and~~

49 ~~— (c) The agreement or policy does not constitute a contract, combination or~~  
50 ~~conspiracy in restraint of trade as described in subsection 1 of NRS 508A.060, as~~  
51 ~~amended by section 15 of this act.~~

52 ~~— 4. The Attorney General shall, on or before June 1, 2023, provide written~~  
53 ~~notice of the approval or disapproval of an agreement or policy submitted pursuant~~

1 to subsection 2 to each party to the agreement or policy. If the Attorney General  
 2 disapproves an agreement or policy, the Attorney General shall include in the  
 3 written notice the reasons for the disapproval.

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

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

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

13 ~~8. As used in this section, "health care service" has the meaning ascribed to it~~  
 14 ~~in NRS 598A.020, as amended by section 13 of this act.] (Deleted by~~  
 15 ~~amendment.)~~

16 **Sec. 25.** ~~[NRS 613.195 is hereby repealed.] (Deleted by amendment.)~~

f

~~TEXT OF REPEALED SECTION~~

~~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.]~~