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SECOND REPRINT

S.B. 283

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

MARCH 15, 2023

Referred to Committee on Commerce and Labor

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

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

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

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

AN ACT relating to health care; requiring a custodian of health care records to furnish health care records electronically under certain circumstances; prohibiting a custodian of health care records from charging a fee that exceeds a certain amount to furnish health care records electronically if the health care records are maintained electronically; authorizing a person to disclose the genetic information of another person in accordance with certain federal law; requiring an insurer, third-party administrator or employer to furnish health care records in certain circumstances; prescribing the maximum amount of any fee charged to furnish health care records in those circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

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

8 Existing law authorizes a custodian of health care records to charge certain fees
9 for furnishing a copy of health care records. (NRS 629.061) **Section 1:** (1)



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10 generally prohibits a custodian of health care records from charging a fee that
11 exceeds \$40 or other amounts prescribed by existing law for furnishing a copy of
12 health care records electronically if the custodian of health care records maintains
13 such health care records electronically; and (2) authorizes a custodian of health care
14 records, other than the health care records of a state or local governmental entity, to
15 charge certain additional fees in certain circumstances. **Section 2** of this bill makes
16 a conforming change to indicate the proper placement of **section 1** in the Nevada
17 Revised Statutes.

18 Existing law prohibits a person from disclosing or compelling a person to
19 disclose the identity of a person who was the subject of a genetic test or any genetic
20 information of another person, with certain exceptions, without first obtaining the
21 informed consent of that person or his or her legal guardian. (NRS 629.171)
22 **Section 1.5** of this bill adds an exception to this prohibition to authorize a person to
23 disclose such information as permitted by the Health Insurance Portability and
24 Accountability Act of 1996, Public Law 104-191.

25 Existing law provides for the payment of compensation to employees who are
26 injured or disabled as a result of an occupational injury or disease.
27 (Chapters 616A-616D and 617 of NRS) Existing law entitles any injured employee
28 or a person who has been authorized by the injured employee to information from
29 the records of an insurer or employer to the extent necessary for the proper
30 presentation of such a claim. (NRS 616B.012) Existing regulations: (1) prescribe a
31 process for an injured employee or person who has been authorized by the injured
32 employee to request such information from the records of an insurer or employer;
33 and (2) prohibit an insurer or employer from charging a fee that is more than 30
34 cents per page when providing the requested information. (NAC 616B.008)

35 Upon receiving such a request for health care records, **section 3** of this bill
36 requires an insurer, third-party administrator or employer to furnish any health care
37 records to the injured employee or his or her legal representative. **Section 3**
38 authorizes an insurer, third-party administrator or employer to electronically
39 transmit such health care records using a method of secure electronic transmission.
40 **Section 3** prescribes the maximum amounts of fees for furnishing health care
41 records in response to such a request, which depend on whether the records are
42 furnished by electronic mail, through a secure electronic method of file sharing or
43 in a nonelectronic format. **Section 4** of this bill makes a conforming change to
44 clarify that **section 3** provides an exception to the general requirement that
45 information obtained from an insurer or employer remain confidential.

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

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

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



1 2. *Except as otherwise provided in subsections 3 and 4, if a*
2 *custodian of health care records maintains health care records*
3 *electronically, any fee to furnish those records electronically*
4 *pursuant to subsection 1 must not exceed \$40 or the amount per*
5 *page prescribed by NRS 629.061, whichever is less.*

6 3. *If the total amount of the fee chargeable pursuant to*
7 *subsection 2 for the furnishing of health care records*
8 *electronically is less than \$5, a custodian of health care records,*
9 *other than a custodian of the health care records of a state or local*
10 *governmental entity, may charge a fee of \$5 for the furnishing of*
11 *those health care records.*

12 4. *A custodian of health care records, other than a custodian*
13 *of the health care records of a state or local governmental entity,*
14 *may charge the following fees to furnish health care records*
15 *electronically, in addition to the total amount of the fee charged*
16 *pursuant to subsection 2 or 3:*

17 (a) *A fee of \$5 for written confirmation that no health care*
18 *records were found.*

19 (b) *A fee of \$5 for furnishing a copy of a certificate of the*
20 *custodian of health care records.*

21 (c) *A fee of \$20 for a copy of a printed film sheet.*

22 (d) *A fee of \$25 for furnishing a copy of radiologic images in*
23 *any form other than a printed film sheet.*

24 5. *As used in this section:*

25 (a) *“Custodian of health care records” has the meaning*
26 *ascribed to it in NRS 629.016 and additionally includes a covered*
27 *entity or business associate, as those terms are defined in 45*
28 *C.F.R. § 160.103.*

29 (b) *“Health care records” has the meaning ascribed to it in*
30 *NRS 629.021 and additionally includes individually identifiable*
31 *health information, as defined in 45 C.F.R. § 160.103.*

32 (c) *“Secure electronic transmission” means the sending of*
33 *information from one computer system to another computer*
34 *system in such a manner as to ensure that:*

35 (1) *No person other than the intended recipient receives the*
36 *information;*

37 (2) *The identity and signature of the sender of the*
38 *information can be authenticated; and*

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

41 **Sec. 1.5.** NRS 629.171 is hereby amended to read as follows:

42 629.171 It is unlawful to disclose or to compel a person to
43 disclose the identity of a person who was the subject of a genetic
44 test or to disclose genetic information of that person in a manner
45 that allows identification of the person, without first obtaining the



1 informed consent of that person or his or her legal guardian pursuant
2 to NRS 629.181, unless the information is disclosed:

3 1. To conduct a criminal investigation, an investigation
4 concerning the death of a person or a criminal or juvenile
5 proceeding;

6 2. To determine the parentage or identity of a person pursuant
7 to NRS 56.020;

8 3. To determine the paternity of a person pursuant to NRS
9 126.121 or 425.384;

10 4. Pursuant to an order of a court of competent jurisdiction;

11 5. By a physician and is the genetic information of a deceased
12 person that will assist in the medical diagnosis of persons related to
13 the deceased person by blood;

14 6. To a federal, state, county or city law enforcement agency to
15 establish the identity of a person or dead human body;

16 7. To determine the presence of certain preventable or
17 inheritable disorders in an infant pursuant to NRS 442.008 or a
18 provision of federal law;

19 8. To carry out the provisions of NRS 442.300 to 442.330,
20 inclusive; ~~or~~

21 9. By an agency of criminal justice pursuant to NRS 179A.075
22 ~~or~~; or

23 *10. As permitted by the Health Insurance Portability and
24 Accountability Act of 1996, Public Law 104-191, and the
25 regulations adopted pursuant thereto.*

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

27 641.2291 1. A program of education for mental health
28 professionals approved by the Board, a mental health professional or
29 a person receiving training for mental health professionals is not
30 required to retain a recording of the provision of mental health
31 services by a psychologist to a patient that meets the requirements of
32 subsection 2 if:

33 (a) The recording is used for a training activity that is part of a
34 program of education for mental health professionals approved by
35 the Board;

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

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

41 (d) The recording is destroyed after the expiration of the period
42 of time prescribed by the Board pursuant to paragraph (b) of
43 subsection 3.



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

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

8 (b) Must not contain any personally identifiable information
9 relating to the patient unless the patient has provided informed
10 consent in writing specifically authorizing the inclusion of that
11 information in the recording.

12 3. The Board shall adopt regulations:

13 (a) Prescribing requirements governing the provision of
14 informed written consent pursuant to paragraph (b) of subsection 1,
15 including, without limitation, requirements governing:

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

18 (2) The length of time that a psychologist who obtains such
19 informed written consent must maintain the informed written
20 consent;

21 (b) Prescribing the length of time that a program of education
22 for mental health professionals, a mental health professional or
23 a person receiving training for mental health professionals that uses
24 a recording of the provision of mental health services by a
25 psychologist to a patient for the purposes described in paragraph (a)
26 of subsection 1 may retain the recording before destroying it; and

27 (c) Defining “training activity” for the purposes of this section.

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

34 5. Except where necessary for compliance with subsection 4,
35 a recording of the provision of mental health services by a
36 psychologist to a patient that is used for a training activity by a
37 program of education for mental health professionals, a mental
38 health professional or a person receiving training for mental health
39 professionals in accordance with the provisions of this section is not
40 a health care record for the purposes of chapter 629 of NRS.

41 6. As used in this section, “mental health professional” means a
42 psychologist, a marriage and family therapist, a clinical professional
43 counselor, a social worker, a master social worker, an independent
44 social worker, a clinical social worker, a clinical alcohol and drug



1 counselor, an alcohol and drug counselor or problem gambling
2 counselor.

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

5 *1. If an injured employee or his or her legal representative*
6 *requests health care records from an insurer, third-party*
7 *administrator or employer pursuant to subsection 2 of NRS*
8 *616B.012, any other provision of chapters 616A to 616D,*
9 *inclusive, or chapter 617 of NRS or any regulation adopted*
10 *pursuant thereto, the insurer, third-party administrator or*
11 *employer shall furnish a copy of the requested records to the*
12 *injured employee or legal representative. Such records may be*
13 *furnished in an electronic format using a method of secure*
14 *electronic transmission that complies with applicable federal and*
15 *state law.*

16 *2. If an insurer, third-party administrator or employer*
17 *maintains health care records electronically, any fee to furnish*
18 *those records in an electronic format pursuant to subsection 1*
19 *must not exceed:*

20 *(a) Fifteen dollars for records able to be delivered by electronic*
21 *mail; or*

22 *(b) Twenty-five dollars for records required to be delivered*
23 *using a secure electronic method of file sharing.*

24 *3. Any fee to furnish health care records in a form that is not*
25 *electronic pursuant to subsection 1 must not exceed 30 cents per*
26 *page.*

27 *4. As used in this section:*

28 *(a) "Health care records" has the meaning ascribed to it in*
29 *NRS 629.021 and additionally includes individually identifiable*
30 *health information, as defined in 45 C.F.R. § 160.103.*

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

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

34 616B.012 1. Except as otherwise provided in this section and
35 NRS 239.0115, 607.217, 616B.015, 616B.021 and 616C.205, *and*
36 *section 3 of this act*, information obtained from any insurer,
37 employer or employee is confidential and may not be disclosed or
38 be open to public inspection in any manner which would reveal the
39 person's identity.

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

44 3. The Division and Administrator are entitled to information
45 from the records of the insurer which is necessary for the



1 performance of their duties. The Administrator may, by regulation,
2 prescribe the manner in which otherwise confidential information
3 may be made available to:

4 (a) Any agency of this or any other state charged with the
5 administration or enforcement of laws relating to industrial
6 insurance, unemployment compensation, public assistance or labor
7 law and industrial relations;

8 (b) Any state or local agency for the enforcement of child
9 support;

10 (c) The Internal Revenue Service of the Department of the
11 Treasury;

12 (d) The Department of Taxation; and

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

15 ➔ Information obtained in connection with the administration of a
16 program of industrial insurance may be made available to persons or
17 agencies for purposes appropriate to the operation of a program of
18 industrial insurance.

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

32 5. To further a current criminal investigation, the chief
33 executive officer of any law enforcement agency of this State may
34 submit to the Administrator a written request for the name, address
35 and place of employment of any person listed in the records of an
36 insurer. The request must set forth the social security number of the
37 person about whom the request is made and contain a statement
38 signed by the chief executive officer certifying that the request is
39 made to further a criminal investigation currently being conducted
40 by the agency. Upon receipt of a request, the Administrator shall
41 instruct the insurer to furnish the information requested. Upon
42 receipt of such an instruction, the insurer shall furnish the
43 information requested. The insurer may charge a reasonable fee to
44 cover any related administrative expenses.



1 6. Upon request by the Department of Taxation, the
2 Administrator shall provide:

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

4 (b) Other information concerning employers collected and
5 maintained by the Administrator or the Division to carry out the
6 purposes of chapters 616A to 616D, inclusive, or chapter 617 of
7 NRS,

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

12 7. Any person who, in violation of this section, discloses
13 information obtained from files of claimants or policyholders or
14 obtains a list of claimants or policyholders under chapters 616A to
15 616D, inclusive, or chapter 617 of NRS and uses or permits the use
16 of the list for any political purposes, is guilty of a gross
17 misdemeanor.

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

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

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

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

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

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

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

