

ASSEMBLY BILL NO. 238—ASSEMBLYMEN EVANS, MANENDO, GIBBONS, HUMKE,
WILLIAMS, GOLDWATER, SEGERBLOM, CHOWNING, GIUNCHIGLIANI,
ARBERRY, HETTRICK, FREEMAN AND CEGAVSKE

FEBRUARY 15, 1999

Referred to Concurrent Committees on Health and Human Services
and Ways and Means

SUMMARY—Provides for establishment and maintenance of system for collection and analysis of
information concerning birth defects and other poor reproductive outcomes.
(BDR 40-72)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: 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 public health; requiring the establishment and maintenance of a system for the
collection and analysis of information concerning birth defects and other poor
reproductive outcomes; restricting access to and the use of information obtained by the
system; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 440.170 is hereby amended to read as follows:
2 440.170 1. All certificates in the custody of the state registrar are
3 open to inspection subject to the provisions of this chapter. It ~~shall be~~ **is**
4 unlawful for any employee of the state to disclose data contained in vital
5 statistics, except as authorized by this chapter or by the board.
6 2. Information in vital statistics indicating that a birth occurred out of
7 wedlock ~~shall~~ **must** not be disclosed except upon order of a court of
8 competent jurisdiction.
9 3. The board ~~may permit~~ :
10 **(a) Shall allow the use of data contained in vital statistics to carry out**
11 **the provisions of sections 3 to 10, inclusive, of this act; and**
12 **(b) May allow** the use of data contained in vital statistics ~~records~~ for
13 **other** research purposes, but without identifying the persons to whom the
14 records relate.

1 **Sec. 2.** Chapter 442 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 3 to 10, inclusive, of this act.

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

6 **Sec. 4.** *“Birth defect” means any structural or chemical abnormality*
7 *present in a child at birth.*

8 **Sec. 5.** *“Poor reproductive outcome” includes stillbirths.*

9 **Sec. 6.** *“System” means the system established and maintained*
10 *pursuant to section 7 of this act.*

11 **Sec. 7. 1.** *The health division, in cooperation with the University of*
12 *Nevada School of Medicine, shall establish and maintain a statewide*
13 *system for the collection and analysis of information concerning birth*
14 *defects and other poor reproductive outcomes.*

15 **2.** *The state board of health may adopt such regulations as it deems*
16 *appropriate to carry out the provisions of sections 3 to 10, inclusive, of*
17 *this act.*

18 **Sec. 8. 1.** *The chief administrative officer of each facility that*
19 *provides health care services in this state or his representative shall make*
20 *available to the state health officer or his representative the records of*
21 *the facility regarding:*

22 **(a)** *Patients who are under 7 years of age and have been diagnosed*
23 *with one or more birth defects; and*

24 **(b)** *Patients discharged with poor reproductive outcomes.*

25 **2.** *The chief administrative officer of each hospital that provides any*
26 *of the categories of service set forth in NRS 449.021 or his representative*
27 *shall maintain and make available to the state health officer or his*
28 *representative a list of:*

29 **(a)** *Patients who are under 7 years of age and have been diagnosed*
30 *with one or more birth defects set forth in diagnostic code categories 740*
31 *to 759.9, inclusive, of the “International Classification of Diseases, 9th*
32 *Edition, Clinical Modification,” published by the Department of Health*
33 *& Human Services; and*

34 **(b)** *Patients discharged with a diagnosis of stillbirth.*

35 *The name of a patient must be maintained on the list for at least 5 years*
36 *after the patient is discharged from the hospital.*

37 **3.** *The state health officer or his representative shall abstract from*
38 *the records and lists required to be maintained by this section such*
39 *information as is required by the state board of health for inclusion in*
40 *the system.*

41 **Sec. 9. 1.** *Information obtained by the system from any source may*
42 *be used only:*

- 1 (a) To investigate the causes of birth defects and other poor
- 2 reproductive outcomes;
- 3 (b) To determine, evaluate and develop strategies to prevent the
- 4 occurrence of birth defects and other poor reproductive outcomes;
- 5 (c) To assist in the early detection of birth defects;
- 6 (d) To assist in ensuring the delivery of services for children identified
- 7 with birth defects; and
- 8 (e) For such other purposes as may be approved by the state health
- 9 officer or his representative.

10 2. The state board of health shall adopt regulations to ensure that:

11 (a) Access to information contained in the system is limited to persons

12 approved by the state health officer or his representative who are:

- 13 (1) Employed by the health division;
- 14 (2) Employed by the University of Nevada School of Medicine; or
- 15 (3) Engaged in demographic, epidemiological or other similar
- 16 research related to health, and who agree in writing to comply with the
- 17 provisions of this section and the regulations of the state board of health.
- 18 (b) Any information obtained by the system that would reveal the
- 19 identity of a patient remains confidential and is used solely for the
- 20 purposes set forth in this section.

21 3. This section does not prohibit the publishing of statistical

22 compilations relating to birth defects and other poor reproductive

23 outcomes that do not in any manner identify individual patients or

24 individual sources of information.

25 **Sec. 10.** The health division shall maintain an accurate record of

26 each person who is not employed by the health division or the University

27 of Nevada School of Medicine and is given access to information in the

28 system. The record must include:

- 29 1. The name and title of the person authorizing access;
- 30 2. The name, title and organizational affiliation of each person given
- 31 access;
- 32 3. The dates of access;
- 33 4. The specific purpose for which the information is to be used; and
- 34 5. The results of the independent research.

35 **Sec. 11.** NRS 442.115 is hereby amended to read as follows:

36 442.115 1. The state board of health, upon the recommendation of

37 the state health officer, shall adopt regulations governing examinations and

38 tests required for the discovery in infants of preventable inheritable

39 disorders, including tests for the presence of sickle cell anemia.

40 2. Any physician, midwife, nurse, maternity home or hospital of any

41 nature ~~attendant-on~~ attending or assisting in any way ~~whatever~~ any

42 infant, or the mother of any infant, at childbirth shall make or cause to be

43 made an examination of the infant, including standard tests, to the extent

1 required by regulations of the state board of health as *is* necessary for the
2 discovery of conditions indicating such disorders.

3 3. If the examination and tests reveal the existence of such conditions
4 in an infant, the physician, midwife, nurse, maternity home or hospital
5 ~~attendant-on~~ *attending* or assisting at the birth of the infant shall
6 immediately:

7 (a) Report the condition to *the state health officer or his representative*,
8 the local health officer of the county or city within which the infant or the
9 mother of the infant resides, and the local health officer of the county or
10 city in which the child is born; and

11 (b) Discuss the condition with the parent, parents or other persons
12 responsible for the care of the infant and inform them of the treatment
13 necessary for the amelioration of the condition.

14 4. An infant is exempt from examination and testing if either parent
15 files a written objection with the person or institution responsible for
16 making the examination or tests.

17 **Sec. 12.** NRS 449.720 is hereby amended to read as follows:

18 449.720 Every patient of a medical facility or facility for the
19 dependent has the right to:

20 1. Receive considerate and respectful care.

21 2. Refuse treatment to the extent permitted by law and to be informed
22 of the consequences of that refusal.

23 3. Refuse to participate in any medical experiments conducted at the
24 facility.

25 4. Retain his privacy concerning his program of medical care.
26 Discussions of a patient's care, consultation with other persons concerning
27 the patient, examinations or treatments, and all communications and
28 records concerning the patient, except as otherwise provided in NRS
29 108.640 and 449.705 , *sections 3 to 10, inclusive, of this act* and chapter
30 629 of NRS, are confidential. The patient must consent to the presence of
31 any person who is not directly involved with his care during any
32 examination, consultation or treatment.

33 5. Have any reasonable request for services reasonably satisfied by the
34 facility considering its ability to do so.

35 6. Receive continuous care from the facility. The patient must be
36 informed:

37 (a) Of his appointments for treatment and the names of the persons
38 available at the facility for those treatments; and

39 (b) By his physician or an authorized representative of the physician, of
40 his need for continuing care.

41 **Sec. 13.** NRS 458.055 is hereby amended to read as follows:

42 458.055 1. To preserve the confidentiality of any information
43 concerning persons applying for or receiving any services pursuant to NRS

1 458.010 to 458.360, inclusive, the bureau may establish and enforce rules
2 governing the confidential nature, custody, use and preservation of the
3 records, files and communications filed with the bureau.

4 2. Wherever information concerning persons applying for and
5 receiving any services pursuant to NRS 458.010 to 458.360, inclusive, is
6 furnished to or held by any other government agency or a public or private
7 institution, the use of such information by the agency or institution is
8 subject to the rules established by the bureau pursuant to subsection 1.

9 3. Except as otherwise provided in NRS 449.705 , *sections 3 to 10,*
10 *inclusive, of this act* and chapter 629 of NRS and except for purposes
11 directly connected with the administration of NRS 458.010 to 458.360,
12 inclusive, a person shall not disclose, use or permit to be disclosed, any
13 confidential information concerning a person receiving services pursuant
14 to NRS 458.010 to 458.360, inclusive.

15 **Sec. 14.** NRS 458.280 is hereby amended to read as follows:

16 458.280 1. Except as otherwise provided in subsection 2, NRS
17 449.705 , *sections 3 to 10, inclusive, of this act* and chapter 629 of NRS,
18 the registration and other records of a treatment facility are confidential
19 and must not be disclosed to any person not connected with the treatment
20 facility without the consent of the patient.

21 2. The provisions of subsection 1 do not restrict the use of a patient's
22 records for the purpose of research into the causes and treatment of
23 alcoholism if such information is not published in a way that discloses the
24 patient's name or other identifying information.

25 **Sec. 15.** NRS 629.171 is hereby amended to read as follows:

26 629.171 It is unlawful to disclose or to compel a person to disclose the
27 identity of a person who was the subject of a genetic test or to disclose
28 genetic information of that person in a manner that allows identification of
29 the person, without first obtaining the informed consent of that person or
30 his legal guardian pursuant to NRS 629.181, unless the information is
31 disclosed:

32 1. To conduct a criminal investigation, an investigation concerning the
33 death of a person or a criminal or juvenile proceeding;

34 2. To determine the parentage or identity of a person pursuant to NRS
35 56.020;

36 3. To determine the paternity of a person pursuant to NRS 126.121 or
37 425.384;

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

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

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

7. To determine the presence of certain inheritable preventable disorders in an infant pursuant to NRS 442.115 or a provision of federal law;

8. To carry out the provisions of sections 3 to 10, inclusive, of this act; or

~~18.1~~ 9. By an agency of criminal justice pursuant to NRS 179A.075.

Sec. 16. NRS 652.190 is hereby amended to read as follows:

652.190 1. A laboratory may examine specimens only at the request of:

(a) A licensed physician;

(b) Any other person authorized by law to use the findings of laboratory tests and examinations; or

(c) If the examination can be made with a testing device or kit which is approved by the Food and Drug Administration for use in the home and which is available to the public without a prescription, any person.

2. Except as otherwise provided in NRS 441A.150 and 652.193 ~~H~~ *and section 8 of this act*, the laboratory may report the results of the examination only to the person requesting the test or procedure and to the patient for whom the testing or procedure was performed. The laboratory report must contain the name of the laboratory.

3. If a specimen is accepted by a laboratory and is referred to another laboratory, the name and address of the other laboratory must be clearly shown by the referring laboratory on the report to the person requesting the test or procedure.

4. Whenever an examination is made pursuant to paragraph (c) of subsection 1, the laboratory report must contain a provision which recommends that the results of the examination be reviewed and interpreted by a physician or other licensed provider of health care.

Sec. 17. NRS 652.193 is hereby amended to read as follows:

652.193 1. ~~1A~~ *Except as otherwise provided in section 8 of this act*, a licensed laboratory may release the results of tests performed at the laboratory regarding a patient of a rural hospital only to:

(a) The patient;

(b) The physician who ordered the tests; and

(c) A provider of health care who is currently treating or providing assistance in the treatment of the patient.

2. As used in this section:

(a) "Provider of health care" has the meaning ascribed to it in NRS 629.031.

(b) "Rural hospital" has the meaning ascribed to it in NRS 449.0177.