

## Amendment No. 185

Assembly Amendment to Assembly Bill No. 78

(BDR 12-592)

**Proposed by:** Committee on Judiciary**Amendment Box:** Replaces Amendment No. 28.**Resolves Conflicts with:** N/A**Amends:** 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"/>	_____

Amend section 1, page 2, by deleting lines 17 through 20 and inserting:

“3. ~~[The]~~ *Except as otherwise provided in subsection 4, the* commission must not exceed ~~[40]~~ 25 percent of the proceeds from the sale of any personal property pursuant to this section ~~[.]~~ *unless, before the sale of the personal property, the court approves a commission that exceeds 25 percent of the proceeds from the sale.*

4. *If a manufactured home or motor vehicle is sold pursuant to the provisions of this section, the commission for the sale of the manufactured home or motor vehicle must not exceed 10 percent of the proceeds from the sale.”.*

Amend section 1, page 2, line 21, by deleting “4.” and inserting “5.”.

Amend sec. 2, page 2, line 26, by deleting:

“, without charge,”.

JCB/BJE

Date: 4/11/2005

A.B. No. 78—Makes various changes concerning administration of estates.



Amend sec. 2, page 2, line 29, after “appears.” by inserting:

***“A financial institution may charge a reasonable fee, not to exceed \$2, to provide a public administrator with a statement pursuant to the provisions of this section.”.***

Amend the bill as a whole by renumbering sec. 5 as sec. 6 and adding a new section designated sec. 5, following sec. 4, to read as follows:

**“Sec. 5.** NRS 629.061 is hereby amended to read as follows:

629.061 1. Each provider of health care shall make the health care records of a patient available for physical inspection by:

(a) The patient or a representative with written authorization from the patient;

(b) The personal representative of the estate of a deceased patient;

(c) ***Any trustee of a living trust created by a deceased patient;***

(d) The parent or guardian of a deceased patient who died before reaching the age of majority;

~~{{d}}~~ (e) An investigator for the Attorney General or a grand jury investigating an alleged violation of NRS 200.495, 200.5091 to 200.50995, inclusive, or 422.540 to 422.570, inclusive;

~~{{e}}~~ (f) An investigator for the Attorney General investigating an alleged violation of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive, or any fraud in the administration of chapter 616A, 616B, 616C, 616D or 617 of NRS or in the provision of benefits for industrial insurance; or

~~{{f}}~~ (g) Any authorized representative or investigator of a state licensing board during the course of any investigation authorized by law.

↪ The records must be made available at a place within the depository convenient for physical inspection, and inspection must be permitted at all reasonable office hours and for a reasonable

length of time. If the records are located outside this State, the provider shall make any records requested pursuant to this section available in this State for inspection within 10 working days after the request.

2. Except as otherwise provided in subsection 3, the provider of health care shall also furnish a copy of the records to each person described in subsection 1 who requests it and pays the actual cost of postage, if any, the costs of making the copy, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy.

3. The provider of health care shall also furnish a copy of any records that are necessary to support a claim or appeal under any provision of the Social Security Act, 42 U.S.C. §§ 301 et seq., or under any federal or state financial needs-based benefit program, without charge, to a patient, or a representative with written authorization from the patient, who requests it, if the request is accompanied by documentation of the claim or appeal. A copying fee, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes, may be charged by the provider of health care for furnishing a second copy of the records to support the same claim or appeal. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy. The provider of health care shall furnish the copy of the records requested pursuant to this subsection within 30 days after the date of receipt of the request, and the provider of health care shall not deny the furnishing of a copy of the records pursuant to this subsection solely because the patient is unable to pay the fees established in this subsection.

4. Each person who owns or operates an ambulance in this State shall make his records regarding a sick or injured patient available for physical inspection by:

- (a) The patient or a representative with written authorization from the patient;
- (b) The personal representative of the estate of a deceased patient;
- (c) ***Any trustee of a living trust created by a deceased patient;***
- (d) The parent or guardian of a deceased patient who died before reaching the age of majority; or
- ~~{(d)}~~ (e) Any authorized representative or investigator of a state licensing board during the

course of any investigation authorized by law.

↪ The records must be made available at a place within the depository convenient for physical inspection, and inspection must be permitted at all reasonable office hours and for a reasonable length of time. The person who owns or operates an ambulance shall also furnish a copy of the records to each person described in this subsection who requests it and pays the actual cost of postage, if any, and the costs of making the copy, not to exceed 60 cents per page for photocopies. No administrative fee or additional service fee of any kind may be charged for furnishing a copy of the records.

5. Records made available to a representative or investigator must not be used at any public hearing unless:

- (a) The patient named in the records has consented in writing to their use; or
- (b) Appropriate procedures are utilized to protect the identity of the patient from public disclosure.

6. Subsection 5 does not prohibit:

(a) A state licensing board from providing to a provider of health care or owner or operator of an ambulance against whom a complaint or written allegation has been filed, or to his attorney, information on the identity of a patient whose records may be used in a public hearing relating to the complaint or allegation, but the provider of health care or owner or operator of an ambulance and his attorney shall keep the information confidential.

(b) The Attorney General from using health care records in the course of a civil or criminal action against the patient or provider of health care.

7. A provider of health care or owner or operator of an ambulance, his agents and employees are immune from any civil action for any disclosures made in accordance with the provisions of this section or any consequential damages.

8. For the purposes of this section:

(a) “Guardian” means a person who has qualified as the guardian of a minor pursuant to testamentary or judicial appointment, but does not include a guardian ad litem.

(b) ***“Living trust” means an inter vivos trust created by a natural person:***

***(1) Which was revocable by the person during the lifetime of the person; and***

***(2) Who was one of the beneficiaries of the trust during the lifetime of the person.***

(c) “Parent” means a natural or adoptive parent whose parental rights have not been terminated.

~~{(e)}~~ (d) “Personal representative” has the meaning ascribed to it in NRS 132.265.”.

Amend the title of the bill, fourth line, after “estate;” by inserting:

“providing that the trustee of a living trust established by a deceased person may obtain the health care records of that person;”.

**If this amendment is adopted, the Legislative  
Counsel's Digest will be changed to read as follows:**

**Legislative Counsel's Digest:**

Under existing law, a personal representative may contract with certain agents and brokers to sell any personal property of an estate. (NRS 148.105) A personal representative includes an executor, an administrator, a successor personal representative, a special administrator or any other person performing a similar function. (NRS 132.265) The agents or brokers with whom the personal representative contracts are entitled to receive a commission from the proceeds of the sale of personal property fixed by the court in an amount which may not exceed 10 percent of the proceeds of the sale. (NRS 148.105)

This bill increases the limitation on commission fees for the sale of personal property other than for the sale of a manufactured home or a motor vehicle to 25 percent of the proceeds of the sale unless, before the sale, the court approves a higher percentage. This bill provides that the commission fees for the sale of a manufactured home or a motor vehicle must not exceed 10 percent of the proceeds of the sale.

Existing law requires financial institutions to disclose the balance of a deceased person's account to a public administrator only if he presents a death certificate or an affidavit of death. (NRS 239A.075) Financial institutions are banking corporations, trust companies, savings and loan associations, thrift companies and credit unions that are subject to regulation under the laws of this State. (NRS 239A.030)

This bill expands the manner in which a public administrator may prove death so that any proof of death is sufficient for the administrator to obtain the deceased person's account information. This bill further provides that the financial institution may charge a fee, not to exceed \$2, to provide this information.

Under existing law, a public administrator may administer an estate worth \$5,000 or less without obtaining letters of administration upon filing an affidavit which meets certain requirements with the court. (NRS 253.0403)

This bill increases the value of such an estate which may be administered by a public administrator without letters of administration to \$20,000.

Under existing law, the personal representative of the estate of a deceased patient is authorized to obtain the health care records of that patient. (NRS 629.061) A personal representative includes an executor, administrator, successor personal representative, special administrator or other person who performs substantially the same function under the law. (NRS 132.265)

This bill provides that any trustee of a living trust created by a deceased patient is similarly entitled to obtain health care records of that patient.