

SENATE BILL NO. 536—COMMITTEE ON
HUMAN RESOURCES AND EDUCATION

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON HEALTH CARE)

MARCH 26, 2007

Referred to Committee on Human Resources and Education

SUMMARY—Makes various changes governing the privacy of certain health information. (BDR 40-305)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 public health; exempting certain entities that comply with the provisions of federal law governing the electronic transmission of certain health information from provisions of state law that provide more stringent privacy requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) protects the privacy of certain individually identifiable health information. (Public Law No. 104-191) HIPAA and the federal regulations to carry out that Act contain provisions which address the use and disclosure of individually identifiable health information by certain covered entities, including certain health plans, health care providers and health care clearinghouses. Among the federal requirements are provisions governing the electronic transmission of such health information. (42 U.S.C. §§ 1320d et seq.)

HIPAA further provides that if a state law imposes requirements or standards concerning the privacy of health information, the state law preempts HIPAA to the extent that the state law is more stringent than HIPAA. **Section 1** of this bill changes the effect of this state law preemption with respect to the electronic transmission of individually identifiable health information by exempting a covered entity that complies with HIPAA from any state law governing the privacy of health information which is more stringent.

Sections 2-32 of this bill create exceptions to existing state laws with provisions governing the privacy of health information for a covered entity that



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18 complies with the provisions of HIPAA governing the electronic transmission of
19 individually identifiable health information.

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

1 **Section 1.** Chapter 439 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 ***1. If a covered entity transmits electronically individually***
4 ***identifiable health information in compliance with the provisions***
5 ***of the Health Insurance Portability and Accountability Act of***
6 ***1996, Public Law 104-191, which govern the electronic***
7 ***transmission of such information, the covered entity is, for***
8 ***purposes of the electronic transmission, exempt from any state law***
9 ***that contains more stringent requirements or provisions***
10 ***concerning the privacy or confidentiality of individually***
11 ***identifiable health information.***

12 ***2. As used in this section:***

13 ***(a) "Covered entity" has the meaning ascribed to it in 45***
14 ***C.F.R. § 160.103.***

15 ***(b) "Individually identifiable health information" has the***
16 ***meaning ascribed to it in 45 C.F.R. § 160.103.***

17 **Sec. 2.** NRS 439.840 is hereby amended to read as follows:

18 439.840 1. The Health Division shall, to the extent of
19 legislative appropriation and authorization:

20 (a) Collect and maintain reports received pursuant to NRS
21 439.835; and

22 (b) Ensure that such reports, and any additional documents
23 created from such reports, are protected adequately from fire, theft,
24 loss, destruction and other hazards and from unauthorized access.

25 ***2. ~~{Reports}~~ Except as otherwise provided in section 1 of this***
26 ***act, reports*** received pursuant to NRS 439.835 are confidential, not
27 subject to subpoena or discovery and not subject to inspection by the
28 general public.

29 **Sec. 3.** NRS 441A.220 is hereby amended to read as follows:

30 441A.220 All information of a personal nature about any
31 person provided by any other person reporting a case or suspected
32 case of a communicable disease, or by any person who has a
33 communicable disease, or as determined by investigation of the
34 health authority, is confidential medical information and must not be
35 disclosed to any person under any circumstances, including pursuant
36 to any subpoena, search warrant or discovery proceeding, except :
37 ***~~{as follows:}~~***

38 ***1. As otherwise provided in section 1 of this act.***



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2. For statistical purposes, provided that the identity of the person is not discernible from the information disclosed.

~~[2-]~~ 3. In a prosecution for a violation of this chapter.

~~[3-]~~ 4. In a proceeding for an injunction brought pursuant to this chapter.

~~[4-]~~ 5. In reporting the actual or suspected abuse or neglect of a child or elderly person.

~~[5-]~~ 6. To any person who has a medical need to know the information for his own protection or for the well-being of a patient or dependent person, as determined by the health authority in accordance with regulations of the Board.

~~[6-]~~ 7. If the person who is the subject of the information consents in writing to the disclosure.

~~[7-]~~ 8. Pursuant to subsection 2 of NRS 441A.320 or NRS 629.069.

~~[8-]~~ 9. If the disclosure is made to the Department of Health and Human Services and the person about whom the disclosure is made has been diagnosed as having acquired immunodeficiency syndrome or an illness related to the human immunodeficiency virus and is a recipient of or an applicant for Medicaid.

~~[9-]~~ 10. To a firefighter, police officer or person providing emergency medical services if the Board has determined that the information relates to a communicable disease significantly related to that occupation. The information must be disclosed in the manner prescribed by the Board.

~~[10-]~~ 11. If the disclosure is authorized or required by specific statute.

Sec. 4. NRS 441A.230 is hereby amended to read as follows:

441A.230 Except as otherwise provided in this chapter ~~[]~~ *and section 1 of this act*, a person shall not make public the name of, or other personal identifying information about, a person infected with a communicable disease who has been investigated by the health authority pursuant to this chapter ~~[]~~ without the consent of the person.

Sec. 5. NRS 442.320 is hereby amended to read as follows:

442.320 1. The Health Division, in cooperation with the University of Nevada School of Medicine, shall establish and maintain a statewide system for the collection and analysis of information concerning birth defects and other adverse birth outcomes.

2. The State Board of Health shall adopt regulations to carry out the provisions of NRS 442.300 to 442.330, inclusive. The regulations must:



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(a) Establish a procedure to inform a patient that his name will be used for research and referrals to related services unless he requests the exclusion of his name from the system; and

(b) ~~Require~~ *Except as otherwise provided in section 1 of this act, require* the exclusion from the system of the name of a patient if the patient or, if the patient is a minor, a parent or legal guardian of the patient has requested in writing to exclude the name of the patient from the system.

3. The provisions of NRS 442.300 to 442.330, inclusive, do not authorize any prenatal genetic testing of children.

Sec. 6. NRS 442.330 is hereby amended to read as follows:

442.330 1. ~~Information~~ *Except as otherwise provided in section 1 of this act, information* obtained by the system from any source may be used only:

(a) To investigate the causes of birth defects and other adverse birth outcomes;

(b) To determine, evaluate and develop strategies to prevent the occurrence of birth defects and other adverse birth outcomes;

(c) To assist in the early detection of birth defects; and

(d) To assist in ensuring the delivery of services for children identified with birth defects.

2. The State Board of Health shall adopt regulations to ensure that ~~it~~, *except as otherwise provided in subsection 3 and section 1 of this act:*

(a) Access to information contained in the system is limited to persons authorized and approved by the State Health Officer or his representative who are employed by the Health Division or the University of Nevada School of Medicine.

(b) Any information obtained by the system that would reveal the identity of a patient remains confidential.

(c) ~~Except as otherwise provided in subsection 3, information~~ *Information* obtained by the system is used solely for the purposes set forth in subsection 1.

3. This section does not prohibit the publishing of statistical compilations relating to birth defects and other adverse birth outcomes that do not in any manner identify individual patients or individual sources of information.

Sec. 7. NRS 442.395 is hereby amended to read as follows:

442.395 ~~It~~ *Except as otherwise provided in section 1 of this act, if* a pregnant woman is referred to the Health Division by a provider of health care or other services for information relating to programs for the prevention and treatment of fetal alcohol syndrome, any report relating to the referral or other associated documentation is confidential and must not be used in any criminal prosecution of the woman.



Sec. 8. NRS 449.720 is hereby amended to read as follows:

449.720 **1.** Every patient of a medical facility, facility for the dependent or home for individual residential care has the right to:

~~[(1)]~~ **(a)** Receive considerate and respectful care.

~~[(2)]~~ **(b)** Refuse treatment to the extent permitted by law and to be informed of the consequences of that refusal.

~~[(3)]~~ **(c)** Refuse to participate in any medical experiments conducted at the facility.

~~[(4)]~~ **(d)** Retain his privacy concerning his program of medical care. ~~[Discussions of a patient's care, consultation with other persons concerning the patient, examinations or treatments, and all communications and records concerning the patient, except as otherwise provided in NRS 108.640, 442.300 to 442.330, inclusive, and 449.705, and chapter 629 of NRS, are confidential. The patient must consent to the presence of any person who is not directly involved with his care during any examination, consultation or treatment.]~~

~~—5—~~ **(e)** Have any reasonable request for services reasonably satisfied by the facility or home considering its ability to do so.

~~[(6)]~~ **(f)** Receive continuous care from the facility or home. The patient must be informed:

~~[(a)]~~ **(1)** Of his appointments for treatment and the names of the persons available at the facility or home for those treatments; and

~~[(b)]~~ **(2)** By his physician or an authorized representative of the physician, of his need for continuing care.

2. *Except as otherwise provided in NRS 108.640, 442.300 to 442.330, inclusive, and 449.705 and chapter 629 of NRS and section 1 of this act, discussions of the care of a patient, consultation with other persons concerning the patient, examinations or treatments, and all communications and records concerning the patient are confidential. The patient must consent to the presence of any person who is not directly involved with his care during any examination, consultation or treatment.*

Sec. 9. NRS 453.157 is hereby amended to read as follows:

453.157 ~~[(A)]~~ *Except as otherwise provided in section 1 of this act, a practitioner engaged in medical practice or research is not required or compelled to furnish the name or identity of a patient or research subject to the Board, nor may he be compelled in any state or local civil, criminal, administrative, legislative or other proceeding to furnish the name or identity of an individual that the practitioner is obligated to keep confidential.*

Sec. 10. NRS 453A.610 is hereby amended to read as follows:

453A.610 **1.** Except as otherwise provided in this section ~~[(1)]~~ *and section 1 of this act*, the University of Nevada School of Medicine shall maintain the confidentiality of and shall not disclose:



(a) The contents of any applications, records or other written materials that the School of Medicine creates or receives pursuant to the research program described in NRS 453A.600; or

(b) The name or any other identifying information of a person who has applied to or who participates in the research program described in NRS 453A.600.

↳ ~~[The]~~ *Except as otherwise provided in section 1 of this act, the* items of information described in this subsection are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

2. Notwithstanding the provisions of subsection 1, the School of Medicine may release the name and other identifying information of a person who has applied to or who participates in the research program described in NRS 453A.600 to:

(a) Authorized employees of the State of Nevada as necessary to perform official duties related to the research program; and

(b) Authorized employees of state and local law enforcement agencies, only as necessary to verify that a person is a lawful participant in the research program.

Sec. 11. NRS 458.055 is hereby amended to read as follows:

458.055 1. To preserve the confidentiality of any information concerning persons applying for or receiving any services pursuant to NRS 458.010 to 458.350, inclusive, the Division may establish and enforce rules governing the confidential nature, custody, use and preservation of the records, files and communications filed with the Division. *Such rules must not conflict with the provisions of section 1 of this act.*

2. Wherever information concerning persons applying for and receiving any services pursuant to NRS 458.010 to 458.350, inclusive, is furnished to or held by any other government agency or a public or private institution, the use of that information by the agency or institution is subject to the rules established by the Division pursuant to subsection 1.

3. Except as otherwise provided in NRS 442.300 to 442.330, inclusive, and 449.705 and chapter 629 of NRS *and section 1 of this act*, and except for purposes directly connected with the administration of NRS 458.010 to 458.350, inclusive, a person shall not disclose, use or authorize the disclosure of any confidential information concerning a person receiving services pursuant to NRS 458.010 to 458.350, inclusive.

Sec. 12. NRS 458.280 is hereby amended to read as follows:

458.280 1. Except as otherwise provided in subsection 2, NRS 442.300 to 442.330, inclusive, and 449.705 and chapter 629 of NRS, *and section 1 of this act*, the registration and other records of a treatment facility are confidential and must not be disclosed to any



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1 person not connected with the treatment facility without the consent
2 of the patient.

3 2. The provisions of subsection 1 do not restrict the use of a
4 patient's records for the purpose of research into the causes and
5 treatment of alcoholism if such information is ~~not~~ :

6 (a) *Not* published in a way that discloses the patient's name or
7 other identifying information ~~+~~ ; or

8 (b) *Disclosed pursuant to section 1 of this act.*

9 **Sec. 13.** NRS 49.245 is hereby amended to read as follows:

10 49.245 There is no privilege under NRS 49.225 or 49.235:

11 1. For communications relevant to an issue in proceedings to
12 hospitalize the patient for mental illness, if the doctor in the course
13 of diagnosis or treatment has determined that the patient is in need
14 of hospitalization.

15 2. As to communications made in the course of a court-ordered
16 examination of the condition of a patient with respect to the
17 particular purpose of the examination unless the court orders
18 otherwise.

19 3. As to written medical or hospital records relevant to an issue
20 of the condition of the patient in any proceeding in which the
21 condition is an element of a claim or defense.

22 4. In a prosecution or mandamus proceeding under chapter
23 441A of NRS.

24 5. As to any information communicated to a physician in an
25 effort unlawfully to procure a dangerous drug or controlled
26 substance, or unlawfully to procure the administration of any such
27 drug or substance.

28 6. As to any written medical or hospital records which are
29 furnished in accordance with the provisions of NRS 629.061.

30 7. As to records that are required by chapter 453 of NRS to be
31 maintained.

32 8. If the services of the physician are sought or obtained to
33 enable or aid a person to commit or plan to commit fraud or any
34 other unlawful act in violation of any provision of chapter 616A,
35 616B, 616C, 616D or 617 of NRS which the person knows or
36 reasonably should know is fraudulent or otherwise unlawful.

37 9. *As to individually identifiable health information that is*
38 *electronically transmitted in accordance with section 1 of this act.*

39 **Sec. 14.** NRS 62E.620 is hereby amended to read as follows:

40 62E.620 1. The juvenile court shall order a delinquent child
41 to undergo an evaluation to determine whether the child is an abuser
42 of alcohol or other drugs if the child committed:

43 (a) An unlawful act in violation of NRS 484.379, 484.3795 or
44 484.37955;



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(b) The unlawful act of using, possessing, selling or distributing a controlled substance; or

(c) The unlawful act of purchasing, consuming or possessing an alcoholic beverage in violation of NRS 202.020.

2. Except as otherwise provided in subsection 3, an evaluation of the child must be conducted by:

(a) An alcohol and drug abuse counselor who is licensed or certified or an alcohol and drug abuse counselor intern who is certified pursuant to chapter 641C of NRS to make that classification; or

(b) A physician who is certified to make that classification by the Board of Medical Examiners.

3. If the child resides in this State but the nearest location at which an evaluation may be conducted is in another state, the court may allow the evaluation to be conducted in the other state if the person conducting the evaluation:

(a) Possesses qualifications that are substantially similar to the qualifications described in subsection 2;

(b) Holds an appropriate license, certificate or credential issued by a regulatory agency in the other state; and

(c) Is in good standing with the regulatory agency in the other state.

4. The evaluation of the child may be conducted at an evaluation center.

5. The person who conducts the evaluation of the child shall report to the juvenile court the results of the evaluation and make a recommendation to the juvenile court concerning the length and type of treatment required for the child.

6. The juvenile court shall:

(a) Order the child to undergo a program of treatment as recommended by the person who conducts the evaluation of the child.

(b) Require the treatment facility to submit monthly reports on the treatment of the child pursuant to this section.

(c) Order the child or the parent or guardian of the child, or both, to the extent of their financial ability, to pay any charges relating to the evaluation and treatment of the child pursuant to this section. If the child or the parent or guardian of the child, or both, do not have the financial resources to pay all those charges:

(1) The juvenile court shall, to the extent possible, arrange for the child to receive treatment from a treatment facility which receives a sufficient amount of federal or state money to offset the remainder of the costs; and



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(2) The juvenile court may order the child, in lieu of paying the charges relating to his evaluation and treatment, to perform community service.

7. After a treatment facility has certified a child's successful completion of a program of treatment ordered pursuant to this section, the treatment facility is not liable for any damages to person or property caused by a child who:

(a) Drives, operates or is in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance; or

(b) Engages in any other conduct prohibited by NRS 484.379, 484.3795, 484.37955, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425 or a law of any other jurisdiction that prohibits the same or similar conduct.

8. The provisions of this section do not prohibit the juvenile court from:

(a) Requiring an evaluation to be conducted by a person who is employed by a private company if the company meets the standards of the Health Division of the Department of Health and Human Services. The evaluation may be conducted at an evaluation center.

(b) Ordering the child to attend a program of treatment which is administered by a private company.

9. All information relating to the evaluation or treatment of a child pursuant to this section is confidential and, except as otherwise authorized by the provisions of this title , ~~for~~ the juvenile court ~~§~~ *or section 1 of this act*, must not be disclosed to any person other than:

(a) The juvenile court;

(b) The child;

(c) The attorney for the child, if any;

(d) The parents or guardian of the child;

(e) The district attorney; and

(f) Any other person for whom the communication of that information is necessary to effectuate the evaluation or treatment of the child.

10. A record of any finding that a child has violated the provisions of NRS 484.379, 484.3795 or 484.37955 must be included in the driver's record of that child for 7 years after the date of the offense.

Sec. 15. NRS 379.008 is hereby amended to read as follows:

379.008 1. An application to the State Library and Archives Administrator for certification and all documents in the file of the State Library and Archives Administrator relating to an application, including:



(a) ~~The~~ *Except as otherwise provided in section 1 of this act, the* applicant's health records;

(b) The applicant's fingerprints and any report from the Federal Bureau of Investigation;

(c) Transcripts of the applicant's ~~record~~ *records* at colleges or other educational institutions;

(d) Correspondence concerning the application; and

(e) Other personal information concerning the applicant,

➔ are confidential.

2. ~~It~~ *Except as otherwise provided in section 1 of this act, it* is unlawful to disclose or release the information in an application or a related document ~~except~~ *unless the disclosure is made* pursuant to the written authorization of the applicant.

3. The State Library and Archives Administrator shall, upon request, make available the file of the applicant for inspection by the applicant during regular business hours.

Sec. 16. NRS 391.035 is hereby amended to read as follows:

391.035 1. An application to the Superintendent of Public Instruction for a license as a teacher or to perform other educational functions and all documents in the Department's file relating to the application, including:

(a) ~~The~~ *Except as otherwise provided in section 1 of this act, the* applicant's health records;

(b) His fingerprints and any report from the Federal Bureau of Investigation or the Central Repository for Nevada Records of Criminal History;

(c) Transcripts of his ~~record~~ *records* at colleges or other educational institutions;

(d) His scores on the examinations administered pursuant to the regulations adopted by the Commission;

(e) Any correspondence concerning the application; and

(f) Any other personal information,

➔ are confidential.

2. ~~It~~ *Except as otherwise provided in section 1 of this act, it* is unlawful to disclose or release the information in an application or any related document ~~except~~ *unless the disclosure is made* pursuant to paragraph (d) of subsection 6 of NRS 179A.075 or the applicant's written authorization.

3. The Department shall, upon request, make available the applicant's file for his inspection during regular business hours.

Sec. 17. NRS 396.525 is hereby amended to read as follows:

396.525 1. Except as otherwise provided in subsection 2 ~~and~~ *and section 1 of this act*, the records of the genetics program concerning the clients and families of clients are confidential.



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2. The genetics program may share information in its possession with the University of Nevada School of Medicine and the Health Division of the Department of Health and Human Services, if the confidentiality of the information is otherwise maintained in accordance with the terms and conditions required by law.

Sec. 18. NRS 422.305 is hereby amended to read as follows:

422.305 1. Except as otherwise provided in subsection 2 , ~~and in~~ NRS 228.410 and 422.2374, *and section 1 of this act*, any information obtained by the Division in an investigation of a provider of services under the State Plan for Medicaid is confidential.

2. ~~The~~ *Except as otherwise provided in this section, the* information presented as evidence at a hearing:

(a) To enforce the provisions of NRS 422.450 to 422.590, inclusive; or

(b) To review an action by the Division against a provider of services under the State Plan for Medicaid,

is not confidential . ~~except for the~~ *The identity of any recipient of the assistance is confidential unless the disclosure of the identity of a recipient is made pursuant to section 1 of this act.*

Sec. 19. NRS 422A.320 is hereby amended to read as follows:

422A.320 1. To restrict the use or disclosure of any information concerning applicants for and recipients of public assistance or assistance pursuant to the Children's Health Insurance Program to purposes directly connected to the administration of this chapter, and to provide safeguards therefor, under the applicable provisions of the Social Security Act, the Division shall establish and enforce reasonable regulations governing the custody, use and preservation of any records, files and communications filed with the Division. *The regulations must not conflict with the provisions set forth in section 1 of this act.*

2. If, pursuant to a specific statute or a regulation of the Division, names and addresses of, or information concerning, applicants for and recipients of assistance, including, without limitation, assistance pursuant to the Children's Health Insurance Program, are furnished to or held by any other agency or department of government, such agency or department of government is bound by the regulations of the Division prohibiting the publication of lists and records thereof or their use for purposes not directly connected with the administration of this chapter.

3. Except for purposes directly connected with the administration of this chapter ~~is~~ *and except as otherwise provided in section 1 of this act*, no person may publish, disclose or use, or permit or cause to be published, disclosed or used, any confidential



1 information pertaining to a recipient of assistance, including,
2 without limitation, a recipient of assistance pursuant to the
3 Children's Health Insurance Program, under the provisions of this
4 chapter.

5 **Sec. 20.** NRS 428.045 is hereby amended to read as follows:

6 428.045 1. To restrict the use or disclosure of any
7 information concerning applicants for or recipients of public
8 assistance to those purposes directly related to the administration of
9 this chapter, and to provide safeguards therefor, the board of county
10 commissioners of each county shall establish and enforce
11 ordinances governing the custody, use and preservation of the
12 records, files and communications related to those persons ~~[that]~~
13 *which* are filed with the board. *The ordinances must not conflict*
14 *with the provisions set forth in section 1 of this act.*

15 2. If, under the provisions of law or the ordinances of a board
16 of county commissioners adopted pursuant to subsection 1, the
17 names and addresses of, or information concerning, applicants for or
18 recipients of public assistance are furnished to or held by any other
19 agency or department of government, the agency or department
20 shall comply with the ordinances of the board of county
21 commissioners prohibiting the publication of lists and records
22 thereof or their use for purposes not directly connected with the
23 administration of this chapter.

24 3. Except for purposes directly related to the administration of
25 this chapter ~~[and]~~ *and except as otherwise provided in section 1 of this*
26 *act*, no person may publish, disclose or use, or permit or cause to be
27 published, disclosed or used, any confidential information relating
28 to an applicant for or a recipient of public assistance under the
29 provisions of this chapter.

30 4. As used in this section, "public assistance" means medical or
31 financial assistance provided by a county pursuant to this chapter.

32 **Sec. 21.** NRS 432B.280 is hereby amended to read as follows:

33 432B.280 1. ~~[Reports]~~ *Except as otherwise provided in*
34 *section 1 of this act, reports* made pursuant to this chapter, as well
35 as all records concerning these reports and investigations thereof,
36 are confidential.

37 2. Any person, law enforcement agency or public agency,
38 institution or facility who willfully releases data or information
39 concerning such reports and investigations, except:

40 (a) Pursuant to a criminal prosecution relating to the abuse or
41 neglect of a child;

42 (b) As otherwise authorized or required pursuant to NRS
43 432B.290; ~~[or]~~

44 (c) As otherwise required pursuant to NRS 432B.513 ~~[and]~~ *; or*



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(d) *As otherwise authorized or required pursuant to section 1 of this act,*

↳ is guilty of a misdemeanor.

Sec. 22. NRS 432B.407 is hereby amended to read as follows:

432B.407 1. A multidisciplinary team to review the death of a child is entitled to access to:

(a) All investigative information of law enforcement agencies regarding the death;

(b) Any autopsy and coroner's investigative records relating to the death;

(c) Any medical or mental health records of the child; and

(d) Any records of social and rehabilitative services or of any other social service agency which has provided services to the child or the child's family.

2. Each organization represented on a multidisciplinary team to review the death of a child shall share with other members of the team information in its possession concerning the child who is the subject of the review, any siblings of the child, any person who was responsible for the welfare of the child and any other information deemed by the organization to be pertinent to the review.

3. A multidisciplinary team to review the death of a child may petition the district court for the issuance of, and the district court may issue, a subpoena to compel the production of any books, records or papers relevant to the cause of any death being investigated by the team. Any books, records or papers received by the team pursuant to the subpoena shall be deemed confidential and privileged and not subject to disclosure.

4. ~~Information~~ *Except as otherwise provided in section 1 of this act, information* acquired by, and the records of, a multidisciplinary team to review the death of a child are confidential, must not be disclosed, and are not subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding.

Sec. 23. NRS 433.332 is hereby amended to read as follows:

433.332 1. If a patient in a division facility is transferred to another division facility or to a medical facility, a facility for the dependent or a physician licensed to practice medicine, the division facility shall forward a copy of the medical records of the patient, on or before the date the patient is transferred, to the facility or physician. Except as otherwise required by 42 U.S.C. §§ ~~290dd-3 and 290ee-3,~~ *290dd, 290dd-1 or 290dd-2 or section 1 of this act,* the division facility is not required to obtain the oral or written consent of the patient to forward a copy of the medical records.

2. As used in this section, "medical records" includes a medical history of the patient, a summary of the current physical condition



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1 of the patient and a discharge summary which contains the
2 information necessary for the proper treatment of the patient.

3 **Sec. 24.** NRS 433.482 is hereby amended to read as follows:

4 433.482 Each client admitted for evaluation, treatment or
5 training to a facility has the following personal rights, a list of which
6 must be prominently posted in all facilities providing those services
7 and must be otherwise brought to the attention of the client by such
8 additional means as prescribed by regulation:

9 1. To wear his own clothing, to keep and use his own personal
10 possessions, including his toilet articles, unless those articles may be
11 used to endanger his or others' lives, and to keep and be allowed to
12 spend a reasonable sum of his own money for expenses and small
13 purchases.

14 2. To have access to individual space for storage for his private
15 use.

16 3. To see visitors each day.

17 4. To have reasonable access to telephones, both to make and
18 receive confidential calls.

19 5. To have ready access to materials for writing letters,
20 including stamps, and to mail and receive unopened
21 correspondence, but:

22 (a) For the purposes of this subsection, packages are not
23 considered as correspondence; and

24 (b) Correspondence identified as containing a check payable to a
25 client may be subject to control and safekeeping by the
26 administrative officer of that facility or his designee, so long as the
27 client's record of treatment documents the action.

28 6. To have reasonable access to an interpreter if the client does
29 not speak English or is hearing impaired.

30 7. To designate a person who must be kept informed by the
31 facility of the client's medical and mental condition, if the client
32 signs a release allowing the facility to provide such information to
33 the person.

34 8. ~~For~~ *Except as otherwise provided in section 1 of this act,*
35 *to* have access to his medical records denied to any person other
36 than:

37 (a) A member of the staff of the facility or related medical
38 personnel, as appropriate;

39 (b) A person who obtains a waiver by the client of his right to
40 keep the medical records confidential; or

41 (c) A person who obtains a court order authorizing the access.

42 9. Other personal rights as specified by regulation of the
43 Commission.



1 **Sec. 25.** NRS 433A.360 is hereby amended to read as follows:
2 433A.360 1. A clinical record for each client must be
3 diligently maintained by any division facility or private institution
4 or facility offering mental health services. The record must include
5 information pertaining to the client's admission, legal status,
6 treatment and individualized plan for habilitation. The clinical
7 record is not a public record and no part of it may be released,
8 except:

9 (a) *If the release is authorized or required pursuant to section*
10 *1 of this act.*

11 (b) The record must be released to physicians, attorneys and
12 social agencies as specifically authorized in writing by the client, his
13 parent, guardian or attorney.

14 ~~(b)~~ (c) The record must be released to persons authorized by
15 the order of a court of competent jurisdiction.

16 ~~(c)~~ (d) The record or any part thereof may be disclosed to a
17 qualified member of the staff of a division facility, an employee of
18 the Division or a member of the staff of an agency in Nevada which
19 has been established pursuant to the Developmental Disabilities
20 Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ ~~6041~~
21 15001 et seq., or the Protection and Advocacy for Mentally Ill
22 Individuals Act of 1986, 42 U.S.C. §§ 10801 et seq., when the
23 Administrator deems it necessary for the proper care of the client.

24 ~~(d)~~ (e) Information from the clinical records may be used for
25 statistical and evaluative purposes if the information is abstracted in
26 such a way as to protect the identity of individual clients.

27 ~~(e)~~ (f) To the extent necessary for a client to make a claim, or
28 for a claim to be made on behalf of a client for aid, insurance or
29 medical assistance to which he may be entitled, information from
30 the records may be released with the written authorization of the
31 client or his guardian.

32 ~~(f)~~ (g) The record must be released without charge to any
33 member of the staff of an agency in Nevada which has been
34 established pursuant to 42 U.S.C. §§ ~~6041~~ 15001 et seq. or 42
35 U.S.C. §§ 10801 et seq. if:

36 (1) The client is a client of that office and he or his legal
37 representative or guardian authorizes the release of the record; or

38 (2) A complaint regarding a client was received by the office
39 or there is probable cause to believe that the client has been abused
40 or neglected and the client:

41 (I) Is unable to authorize the release of the record because
42 of his mental or physical condition; and

43 (II) Does not have a guardian or other legal representative
44 or is a ward of the State.



~~(e)~~ (h) The record must be released as provided in NRS 433.332 or 433B.200 and in chapter 629 of NRS.

2. As used in this section, "client" includes any person who seeks, on his own or others' initiative, and can benefit from, care, treatment and training in a private institution or facility offering mental health services, or from treatment to competency in a private institution or facility offering mental health services.

Sec. 26. NRS 629.068 is hereby amended to read as follows:

629.068 1. A provider of health care shall, upon request of the Director of the Department of Corrections or his designee, provide the Department of Corrections with a complete copy of the health care records of an offender confined at the state prison.

2. Records provided to the Department of Corrections must not be used at any public hearing unless:

(a) *The use is authorized or required pursuant to section 1 of this act;*

(b) The offender named in the records has consented in writing to their use; or

~~(b)~~ (c) Appropriate procedures are ~~futilized~~ used to protect the identity of the offender from public disclosure.

3. A provider of health care and an agent or employee of a provider of health care are immune from civil liability for a disclosure made in accordance with the provisions of this section.

Sec. 27. NRS 629.161 is hereby amended to read as follows:

629.161 1. It is unlawful to retain genetic information that identifies a person, without first obtaining the informed consent of the person or the person's legal guardian pursuant to NRS 629.181, unless retention of the genetic information is:

(a) *Authorized or required pursuant to section 1 of this act;*

(b) Necessary to conduct a criminal investigation, an investigation concerning the death of a person or a criminal or juvenile proceeding;

~~(b)~~ (c) Authorized pursuant to an order of a court of competent jurisdiction; or

~~(e)~~ (d) Necessary for a medical facility as defined in NRS 449.0151 to maintain a medical record of the person.

2. A person who has authorized another person to retain his genetic information may request that person to destroy the genetic information. If so requested, the person who retains that genetic information shall destroy the information, unless retention of that information is:

(a) *Authorized or required pursuant to section 1 of this act;*

(b) Necessary to conduct a criminal investigation, an investigation concerning the death of a person or a criminal or juvenile proceeding;



~~[(b)]~~ (c) Authorized by an order of a court of competent jurisdiction;

~~[(e)]~~ (d) Necessary for a medical facility as defined in NRS 449.0151 to maintain a medical record of the person; or

~~[(d)]~~ (e) Authorized or required by state or federal law or regulation.

3. Except as otherwise provided in subsection 4 or by federal law or regulation, a person who obtains the genetic information of a person for use in a study shall destroy that information upon:

(a) The completion of the study; *or*

(b) The withdrawal of the person from the study,

↳ whichever occurs first.

4. A person whose genetic information is used in a study may authorize the person who conducts the study to retain that genetic information after the study is completed or upon his withdrawal from the study.

Sec. 28. NRS 630.30665 is hereby amended to read as follows:

630.30665 1. The Board shall require each holder of a license to practice medicine to submit annually to the Board, on a form provided by the Board, and in the format required by the Board by regulation, a report:

(a) Stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his office or any other facility, excluding any surgical care performed:

(1) At a medical facility as that term is defined in NRS 449.0151; or

(2) Outside of this State; and

(b) Reporting the occurrence of any sentinel event arising from any such surgery.

2. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action.

3. The Board shall:

(a) Collect and maintain reports received pursuant to subsection 1; and

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access.

4. ~~[(A)]~~ *Except as otherwise provided in section 1 of this act, a report received pursuant to subsection 1 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.*



5. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

6. As used in this section:

(a) "Conscious sedation" means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.

(b) "Deep sedation" means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.

(c) "General anesthesia" means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.

(d) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

Sec. 29. NRS 639.238 is hereby amended to read as follows:

639.238 1. Prescriptions filled and on file in a pharmacy are not a public record. Except as otherwise provided in NRS 639.2357, *and section 1 of this act*, a pharmacist shall not divulge the contents of any prescription or provide a copy of any prescription, except to:

(a) The patient for whom the original prescription was issued;

(b) The practitioner who originally issued the prescription;

(c) A practitioner who is then treating the patient;

(d) A member, inspector or investigator of the Board or an inspector of the Food and Drug Administration or an agent of the Investigation Division of the Department of Public Safety;

(e) An agency of State Government charged with the responsibility of providing medical care for the patient;

(f) An insurance carrier, on receipt of written authorization signed by the patient or his legal guardian, authorizing the release of such information;

(g) Any person authorized by an order of a district court;



(h) Any member, inspector or investigator of a professional licensing board which licenses a practitioner who orders prescriptions filled at the pharmacy;

(i) Other registered pharmacists for the limited purpose of and to the extent necessary for the exchange of information relating to persons who are suspected of:

(1) Misusing prescriptions to obtain excessive amounts of drugs; or

(2) Failing to use a drug in conformity with the directions for its use or taking a drug in combination with other drugs in a manner that could result in injury to that person; ~~or~~

(j) A peace officer employed by a local government for the limited purpose of and to the extent necessary:

(1) For the investigation of an alleged crime reported by an employee of the pharmacy where the crime was committed; or

(2) To carry out a search warrant or subpoena issued pursuant to a court order ~~or~~; or

(k) A county coroner, medical examiner or investigator employed by an office of a county coroner for the purpose of:

(1) Identifying a deceased person;

(2) Determining a cause of death; or

(3) Performing other duties authorized by law.

2. Any copy of a prescription for a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is issued to a county coroner, medical examiner or investigator employed by an office of a county coroner must be limited to a copy of the prescription filled or on file for:

(a) The person whose name is on the container of the controlled substance or dangerous drug that is found on or near the body of a deceased person; or

(b) The deceased person whose cause of death is being determined.

3. Except as otherwise provided in NRS 639.2357, any copy of a prescription for a controlled substance or a dangerous drug as defined in chapter 454 of NRS, issued to a person authorized by this section to receive such a copy, must contain all of the information appearing on the original prescription and be clearly marked on its face "Copy, Not Refillable—For Reference Purposes Only." The copy must bear the name or initials of the registered pharmacist who prepared the copy.

4. If a copy of a prescription for any controlled substance or a dangerous drug as defined in chapter 454 of NRS is furnished to the customer, the original prescription must be voided and notations made thereon showing the date and the name of the person to whom the copy was furnished.



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1 5. As used in this section, "peace officer" does not include:
2 (a) A member of the Police Department of the Nevada System
3 of Higher Education.

4 (b) A school police officer who is appointed or employed
5 pursuant to NRS 391.100.

6 **Sec. 30.** NRS 652.190 is hereby amended to read as follows:

7 652.190 1. A laboratory may examine specimens only at the
8 request of:

9 (a) A licensed physician;

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

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

16 2. Except as otherwise provided in NRS 441A.150, 442.325
17 and 652.193, *and section 1 of this act*, the laboratory may report the
18 results of the examination only to:

19 (a) The person requesting the test or procedure;

20 (b) A provider of health care who is treating or providing
21 assistance in the treatment of the patient;

22 (c) A provider of health care to whom the patient has been
23 referred; and

24 (d) The patient for whom the testing or procedure was
25 performed.

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

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

36 **Sec. 31.** NRS 688C.320 is hereby amended to read as follows:

37 688C.320 ~~[AHH]~~ *Except as otherwise provided in section 1 of*
38 *this act, all* medical information solicited or obtained by a licensee
39 under this chapter is subject to other laws of this State relating to the
40 confidentiality of the information.

41 **Sec. 32.** NRS 689B.280 is hereby amended to read as follows:

42 689B.280 1. Except as otherwise provided in subsection 2,
43 *and section 1 of this act*, an insurer or any agent or employee of an
44 insurer who delivers or issues for delivery a policy of group health



1 or blanket health insurance in this State shall not disclose to the
2 policyholder or any agent or employee of the policyholder:

3 (a) The fact that an insured is taking a prescribed drug or
4 medicine; or

5 (b) The identity of that drug or medicine.

6 2. The provisions of subsection 1 do not prohibit disclosure to
7 an administrator who acts as an intermediary for claims for
8 insurance coverage.

