

## Amendment No. 384

Assembly Amendment to Assembly Bill No. 316

(BDR 40-233)

**Proposed by:** Assembly Committee on Health and Human Services**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"/> | _____            |

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

AAK/RBL



Date: 4/16/2013

A.B. No. 316—Revises provisions governing medical records. (BDR 40-233)



ASSEMBLY BILL NO. 316—ASSEMBLYMEN DONDERO LOOP,  
SPRINKLE AND KIRKPATRICK

MARCH 18, 2013

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing medical records. (BDR 40-233)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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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 a person who receives a health care record from certain persons or governmental entities to maintain the confidentiality of the record; authorizing a civil action for certain violations of such confidentiality; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law prohibits a person from using, releasing or publishing certain information from an electronic health record or from the statewide health information exchange for a purpose unrelated to the treatment, care, well-being or billing of the person who is the subject of the information or for a marketing purpose unless the use, release or publication is authorized by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. (NRS 439.590) This bill: (1) prohibits a person who receives health care records from a person or governmental entity who is subject to the Health Insurance Portability and Accountability Act of 1996 from sharing or otherwise disclosing any information contained in the records in any manner that is not authorized by the Act; and (2) allows a ~~resident of this State~~ person who is harmed by any such sharing or disclosure of his or her health care records to bring an action to recover civil damages against the person or governmental entity who violated this provision or who provided the health care records to the person who violated this provision. This bill further specifically authorizes the Attorney General to bring a civil action for damages on behalf of residents for violations of the Health Insurance Portability and Accountability Act of 1996.

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

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

*1. A person who receives health care records as part of a transaction with a person or governmental entity who is subject to the Health Insurance Portability*

1 and Accountability Act of 1996, Public Law 104-191, shall not share or otherwise  
2 disclose any information contained in the health care records in any manner not  
3 authorized by the Health Insurance Portability and Accountability Act of 1996.

4 2. A person who is harmed by a violation of subsection 1 may bring an  
5 action to recover any damages sustained in a court of competent jurisdiction in  
6 this State against ~~that~~ :

7 (a) Except as otherwise provided in paragraph (b), the person or  
8 governmental entity ~~who provided the health care records to the person who~~  
9 that violated subsection 1 ~~if~~ ; or

10 (b) If the person that violated subsection 1 is located outside of the United  
11 States, the person or governmental entity that transmitted those health care  
12 records to the person located outside of the United States.

13 3. If the Attorney General has reason to believe that one or more residents  
14 of this State have been harmed by a violation of the Health Insurance Portability  
15 and Accountability Act of 1996, Public Law 104-191, the Attorney General may  
16 bring a civil action against the person responsible for the violation to obtain  
17 damages on behalf of the resident or residents to the greatest extent permitted by  
18 federal law.

19 4. Nothing in this section shall be construed to:

20 (a) Modify the application of the Health Insurance Portability and  
21 Accountability Act of 1996 to a person or governmental entity that is already  
22 subject to that law.

23 (b) Waive any immunity from liability or limitation on liability otherwise  
24 applicable to a governmental entity.

25 ~~++~~ 5. As used in this section, "health care records" has the meaning  
26 ascribed to it in NRS 629.021.

27 Sec. 2. NRS 439.538 is hereby amended to read as follows:

28 439.538 1. If a covered entity transmits electronically individually  
29 identifiable health information in compliance with the provisions of:

30 (a) The Health Insurance Portability and Accountability Act of 1996, Public  
31 Law 104-191; and

32 (b) NRS 439.581 to 439.595, inclusive, and the regulations adopted pursuant  
33 thereto,

34 which govern the electronic transmission of such information, the covered entity  
35 is, for purposes of the electronic transmission, exempt from any state law, except  
36 section 1 of this act, that contains more stringent requirements or provisions  
37 concerning the privacy or confidentiality of individually identifiable health  
38 information.

39 2. A covered entity that makes individually identifiable health information  
40 available electronically pursuant to subsection 1 shall allow any person to opt out of  
41 having his or her individually identifiable health information disclosed  
42 electronically to other covered entities, except:

43 (a) As required by the administrative simplification provisions of the Health  
44 Insurance Portability and Accountability Act of 1996, Public Law 104-191.

45 (b) As otherwise required by a state law.

46 (c) That a person who is a recipient of Medicaid or insurance pursuant to the  
47 Children's Health Insurance Program may not opt out of having his or her  
48 individually identifiable health information disclosed electronically.

49 3. As used in this section, "covered entity" has the meaning ascribed to it in  
50 45 C.F.R. § 160.103.

51 ~~Sec. 2.~~ Sec. 3. This act becomes effective on July 1, 2013.