

Amendment No. 769

Senate Amendment to Assembly Bill No. 248 First Reprint	(BDR 40-930)
Proposed by: Senate 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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

EWR/RBL



Date: 5/15/2015

A.B. No. 248—Revises provisions governing reporting of information by physicians to the Department of Motor Vehicles concerning patients with epilepsy. (BDR 40-930)



ASSEMBLY BILL NO. 248—ASSEMBLYMEN TITUS, DOOLING, JONES, DICKMAN;
HICKEY, O'NEILL, OSCARSON, SHELTON, SILBERKRAUS AND WHEELER

MARCH 11, 2015

JOINT SPONSORS: SENATORS HARDY;
GOICOECHEA AND GUSTAVSON

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing reporting of information by physicians to the Department of Motor Vehicles concerning patients with epilepsy. (BDR 40-930)

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; ~~authorizing~~ **requiring** physicians, under certain circumstances, to report to the Department of Motor Vehicles certain information regarding patients who have epilepsy; abolishing certain duties of physicians to report certain patient information; requiring physicians to inform certain patients with epilepsy of the dangers of operating a motor vehicle; providing that certain reports and statements provided to the Department concerning patients with epilepsy are not subject to the doctor-patient privilege under certain circumstances; providing that a cause of action may not be brought against a physician for failing to report such information to the Department ~~if~~ **in circumstances where reporting is not required**; providing that a cause of action may not be brought against a physician for reporting certain information regarding patients who have epilepsy to the Department except in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires: (1) a physician to report immediately to the Division of Public and Behavioral Health of the Department of Health and Human Services, in writing, the name, age and address of every person diagnosed as a case of epilepsy, as defined by the State Board of Health; and (2) the Division to report this information to the Department of Motor Vehicles. (NRS 439.270) **Section 1** of this bill abolishes these duties and the requirement that the State Board define the term "epilepsy." Instead, **section 1** requires a physician who determines that a patient's epilepsy severely impairs the ability of ~~for the~~ **the** patient to safely operate a motor vehicle to notify such a patient of this determination and ~~obtain from the patient a signed statement acknowledging the notification. If the patient refuses to sign an acknowledgment,~~

~~section 1 requires the physician to~~ sign a written statement verifying that the physician provided the required notification. **Section 1** ~~authorizes~~ **requires** a physician ~~upon the request of the Department of Motor Vehicles~~ to provide a copy of the ~~acknowledgment or statement to the Department~~ **of Motor Vehicles within 15 days after determining that a patient's epilepsy severely impairs the ability of the patient to operate a motor vehicle.**

Section 4 of this bill prohibits a person with epilepsy from operating a motor vehicle if the person has been informed by a physician that his or her condition would severely impair his or her ability to safely operate a motor vehicle. **Section 4** authorizes a physician who is aware that a person with epilepsy has violated this provision to submit, without the person's consent, a written report to the Department of Motor Vehicles that includes the name, address and age of the person.

Section 2 of this bill provides that a person who has been informed by a physician that his or her condition would severely impair his or her ability to safely operate a motor vehicle has no privilege to prevent a physician from disclosing this information to the Department of Motor Vehicles.

Sections 1 and 4 provide that the Department of Motor Vehicles may only use such information to determine whether a person is eligible to operate a motor vehicle in this State. **Sections 1 and 4** also provide that no cause of action may be brought against a physician: (1) for failing to provide such information to the Department **in any circumstance where the provision of such information is not required;** or (2) for providing such information to the Department, unless the physician acted with malice, intentional misconduct, gross negligence or intentional or knowing violation of the law.

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

Section 1. NRS 439.270 is hereby amended to read as follows:

439.270 1. ~~The State Board of Health shall define epilepsy for the purposes of the reports hereinafter referred to in this section.~~

~~2. All physicians shall report immediately to the Division, in writing, the name, age and address of every person diagnosed as a case of epilepsy.~~

~~3. The Division shall report, in writing, to the Department of Motor Vehicles the name, age and address of every person reported to it as a case of epilepsy.~~

~~4. Except as otherwise provided in NRS 239.0115, the reports are for the information of the Department of Motor Vehicles and must be kept confidential. If a physician determines that, in his or her professional judgment, a patient's epilepsy severely impairs the ability of the patient to safely operate a motor vehicle, the physician shall:~~

~~(a) Adequately inform the patient of the dangers of operating a motor vehicle with his or her condition until such time as the physician or another physician informs the patient that the patient's condition does not severely impair the ability of the patient to safely operate a motor vehicle. and~~

~~(b) Except as otherwise provided in subsection 2:~~

~~(1) Require the patient to sign a statement acknowledging that he or she has been informed by the physician of the dangers of operating a motor vehicle with his or her condition; and~~

~~(2) Retain the original signed statement and provide a copy of the signed statement to the patient.~~

~~2. If a patient refuses to sign a statement pursuant to paragraph (b) of subsection 1, the physician shall sign. Sign a written statement verifying that the physician informed the patient of all material facts and information required by paragraph (a). of subsection 1. The physician shall, to the extent practicable, provide a copy of the statement signed by the physician to the patient.~~

~~3. A statement signed by a patient pursuant to subsection 1 or a~~ The statement signed by the physician pursuant to subsection 2; this paragraph shall be deemed a health care record, as defined in NRS 629.021.

~~4. A physician may, upon the request of the Department, provide~~

(c) Within 15 days after making such a determination, provide to the Department a copy of the statement signed by a patient pursuant to subsection 1 or a statement signed by the physician pursuant to subsection 2; paragraph (b). A statement received by the Department pursuant to this subsection; paragraph:

~~(a) (1) Is confidential, except that the contents of the statement may be disclosed to the patient; and~~

~~(b) (2) May be used by the Department solely to determine the eligibility of any person the patient to operate a vehicle on the streets and highways of this State.~~

~~5. A violation of this section is a misdemeanor. The provision by a physician of a copy of a statement pursuant to subsection 4 is solely within his or her discretion.~~

2. Except as otherwise provided in subsection 1, a physician is not required to notify the Department about a patient who has been diagnosed with epilepsy. No cause of action may be brought against a physician based on the fact that he or she did not provide such a copy.

~~6. notify the Department about a patient who has been diagnosed with epilepsy unless the physician does not comply with the requirements set forth in subsection 1.~~

3. No cause of action may be brought against a physician based on the fact that he or she provided a copy of a statement pursuant to subsection 4 unless the physician acted with malice, intentional misconduct, gross negligence or intentional or knowing violation of the law.

~~7. 4. As used in this section:~~

~~(a) "Department" means the Department of Motor Vehicles.~~

~~(b) "Patient" means a person who consults or is examined or interviewed by a physician for the purposes of diagnosis or treatment.~~

Sec. 2. NRS 49.245 is hereby amended to read as follows:

49.245 There is no privilege under NRS 49.225 or 49.235:

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

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

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

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

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

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

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

8. As to reports made to the Department of Motor Vehicles pursuant to subsection 2 of section 4 of this act and any statements provided to the Department pursuant to NRS 439.270.

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

Sec. 3. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.280, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964, 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.152, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260,

681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, *and section 4 of this act*, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 4. Chapter 483 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person with epilepsy shall not operate a motor vehicle if that person has been informed by a physician pursuant to NRS 439.270 that his or her condition would severely impair his or her ability to safely operate a motor vehicle.

2. If a physician is aware that a person has violated subsection 1 after the physician has informed the person pursuant to NRS 439.270 that the person's condition would severely impair his or her ability to safely operate a motor vehicle, the physician may, without the consent of the person, submit a written report to the Department that includes the name, address and age of the person. A report received by the Department pursuant to this subsection:

(a) Is confidential, except that the contents of the report may be disclosed to the person about whom the report is made; and

(b) ~~May include the statement maintained by the physician pursuant to subsection 3 of NRS 439.270; and~~

~~—(c)— May be used by the Department solely to determine the eligibility of the person to operate a vehicle on the streets and highways of this State.~~

3. The submission by a physician of a report pursuant to subsection 2 is solely within his or her discretion. No cause of action may be brought against a physician based on the fact that he or she did not submit such a report.

1 *4. No cause of action may be brought against a physician based on the fact*
2 *that he or she submitted a report pursuant to subsection 2 unless the physician*
3 *acted with malice, intentional misconduct, gross negligence or intentional or*
4 *knowing violation of the law.*