

SENATE BILL NO. 273—SENATOR HARDY

MARCH 13, 2015

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to health care records.
(BDR 54-589)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
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 health care records; prohibiting a custodian of health care records from preventing the physical inspection of any health care records or providing copies thereof under certain circumstances; requiring a custodian of health care records to deliver the health care records or copies thereof under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each provider of health care to: (1) retain the health care records of his or her patients as part of his or her regularly maintained records for 5 years after their receipt or production; and (2) make those health care records available for physical inspection or provide copies thereof for certain persons, including, without limitation, the patient or a representative with written authorization from the patient. If the health care records are retained for at least 5 years or a longer period as provided by federal law and the person for whom the health care records are maintained has attained the age of 23 years, the health care records may be destroyed. (NRS 629.051, 629.061) Existing law defines "provider of health care" to mean a physician licensed pursuant to chapter 630, 630A or 633 of NRS and various other persons involved in the provision of health care. (NRS 629.031) This bill enacts provisions governing the retention of health care records by a custodian of health care records, and defines a "custodian of health care records" to mean any person having lawful custody of any health care records pursuant to chapter 629 of NRS, other than certain specified facilities and hospitals. This bill also: (1) prohibits, under certain circumstances, a custodian of health care records who has lawful custody of any health care records of a provider of health care from preventing the provider of health care from physically inspecting the



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health care records or from receiving copies of those records upon request; (2) requires a custodian of health care records to deliver the health care records or copies thereof to the provider of health care and the patient under certain circumstances; and (3) subjects a custodian of health care records who violates a provision of this bill to prosecution for a gross misdemeanor and punishment by imprisonment in the county jail for not more than 364 days or by a fine of not more than \$25,000, or both, for each violation and the imposition of a civil penalty of not less than \$10,000 for each violation.

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

Section 1. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Subject to the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, or any other federal law or regulation:

(a) A custodian of health care records having custody of any health care records of a provider of health care pursuant to this chapter shall not prevent the provider of health care from physically inspecting the health care records or receiving copies of those records upon request by the provider of health care in the manner specified in NRS 629.061.

(b) If a custodian of health care records specified in paragraph (a) ceases to do business in this State, the custodian of health care records shall, within 10 days after ceasing to do business in this State, deliver the health care records of the provider of health care, or copies thereof, to the provider of health care.

2. A custodian of health care records who violates a provision of this section is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 364 days, or by a fine of not more than \$25,000 for each violation, or by both fine and imprisonment.

3. In addition to any criminal penalties imposed pursuant to subsection 2, a custodian of health care records who violates a provision of this section is subject to a civil penalty of not less than \$10,000 for each violation, to be recovered in a civil action brought in the district court in the county in which the provider of health care's principal place of business is located or in the district court of Carson City.

4. As used in this section, "custodian of health care records" means any person having custody of any health care records pursuant to this chapter. The term does not include:

(a) A facility for hospice care, as defined in NRS 449.0033;

(b) A facility for intermediate care, as defined in NRS 449.0038;



- 1 *(c) A facility for skilled nursing, as defined in NRS 449.0039;*
- 2 *(d) A hospital, as defined in NRS 449.012; or*
- 3 *(e) A psychiatric hospital, as defined in NRS 449.0165.*
- 4 **Sec. 2.** This act becomes effective on July 1, 2015.

