

Amendment No. 888

Assembly Amendment to Senate Bill No. 291 First Reprint (BDR 54-350)

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) 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.

MKM/BJF



Date: 5/22/2017

S.B. No. 291—Revises provisions relating to health care records. (BDR 54-350)



SENATE BILL NO. 291—SENATORS HARDY, HARRIS;
ATKINSON, GANSERT, PARKS AND SETTELMAYER

MARCH 16, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to health care records. (BDR 54-350)

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 health care records; requiring a custodian of health care records to perform certain duties; requiring a custodian of health care records to make certain health care records available for inspection by a coroner or medical examiner under certain circumstances; revising the civil and criminal penalties for a custodian who violates certain requirements; authorizing the Board of Medical Examiners to take possession of the health care records of a licensee's patients under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a physician or other provider of health care to: (1) retain the health care records of patients for at least 5 years; (2) make available to investigators certain health care records of a patient who is suspected of having operated a motor vehicle while intoxicated; (3) maintain a record of information provided by a patient relating to health insurance coverage; and (4) provide to the Department of Corrections the health care records of an offender confined at the state prison. (NRS 629.051, 629.065, 629.066, 629.068) **Sections 4 and 7-9** of this bill require the custodian of the relevant health care records to perform those duties. **Section 1** of this bill defines the custodian of health care records as any person having primary custody of those records or a facility that maintains the health care records of patients.

Existing law requires a provider of health care to make health care records available for inspection by a patient, certain representatives of a patient and certain government officials. (NRS 629.061) **Section 5** of this bill requires the custodian of health care records to make the records available for inspection, and includes in the definition of "health care records," for the purposes of that section, any records that reflect the amount charged for medical services or care provided to a patient. **Section 5 further requires the custodian of health care records to make health care records available for inspection by a coroner or medical examiner in the performance of his or her duties.**

A custodian of the health care records of a provider of health care is prohibited by existing law from preventing the provider from inspecting or obtaining copies of the records. If the custodian ceases to do business in this State, the custodian must deliver the records or copies of the records to the provider. Any violation of those requirements is a gross misdemeanor and subjects the custodian to a potential civil penalty of not less than \$10,000, to be recovered in a civil action. (NRS 629.063) **Section 6** of this bill provides that only a

custodian of health care records who is not licensed under certain provisions of NRS and who violates the foregoing requirements is guilty of a gross misdemeanor. **Section 6** also revises the civil penalty provisions so that ~~[\$10,000]~~ \$5,000 is the maximum penalty that may be collected. ~~Finally, section 6 provides that any action to recover a civil penalty must be brought by the district attorney of the county in which the action is brought, for each violation as applied to a patient's entire health care record.~~

Existing law requires certain providers of health care to retain the health care records of patients for 5 years after their receipt or production. (NRS 629.051) **Section 9.5** of this bill authorizes the Board of Medical Examiners to take possession of the health care records of a licensee's patients in the event of the licensee's death, disability, incarceration or other incapacitation that renders the licensee unable to continue his or her practice. **Section 9.5** further authorizes the Board to provide a patient's records to the patient or to the patient's subsequent provider of health care. **Section 9.5** also requires that certain disclosures regarding such records be provided to patients.

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. "Custodian of health care records" or "custodian" means:

(a) Any person having primary custody of health care records pursuant to this chapter; or

(b) Any facility that maintains the health care records of patients.

2. For the purposes of this section, a provider of health care shall not be deemed to have primary custody of health care records or to be the operator of a facility that maintains the health care records of patients:

(a) Solely by reason of the status of the provider as a member of a group of providers of health care; or

(b) If another person is employed or retained to maintain custody of the health care records of the provider.

Sec. 2. NRS 629.011 is hereby amended to read as follows:

629.011 As used in this chapter, unless the context otherwise requires, *the* words and terms defined in NRS 629.021, 629.026 and 629.031 *and section 1 of this act* have the meanings ascribed to them in those sections.

Sec. 3. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by a specific statute:

1. "Provider of health care" means:

(a) A physician licensed pursuant to chapter 630, 630A or 633 of NRS;

(b) A physician assistant;

(c) A dentist;

(d) A licensed nurse;

(e) A person who holds a license as an attendant or who is certified as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to chapter 450B of NRS;

(f) A dispensing optician;

(g) An optometrist;

(h) A speech-language pathologist;

(i) An audiologist;

(j) A practitioner of respiratory care;

(k) A registered physical therapist;

(l) An occupational therapist;

(m) A podiatric physician;

- (n) A licensed psychologist;
(o) A licensed marriage and family therapist;
(p) A licensed clinical professional counselor;
(q) A music therapist;
(r) A chiropractor;
(s) An athletic trainer;
(t) A perfusionist;
(u) A doctor of Oriental medicine in any form;
(v) A medical laboratory director or technician;
(w) A pharmacist;
(x) A licensed dietitian;
(y) An associate in social work, a social worker, an independent social worker or a clinical social worker licensed pursuant to chapter 641B of NRS;
(z) An alcohol and drug abuse counselor or a problem gambling counselor who is certified pursuant to chapter 641C of NRS;
(aa) An alcohol and drug abuse counselor or a clinical alcohol and drug abuse counselor who is licensed pursuant to chapter 641C of NRS; or
(bb) A medical facility as the employer of any person specified in this subsection.

2. ~~For the purposes of NRS 629.051, 629.061, 629.065 and 629.077, the term includes a facility that maintains the health care records of patients.~~

—3— For the purposes of NRS 629.400 to 629.490, inclusive, the term includes:

- (a) A person who holds a license or certificate issued pursuant to chapter 631 of NRS; and
(b) A person who holds a current license or certificate to practice his or her respective discipline pursuant to the applicable provisions of law of another state or territory of the United States.

Sec. 4. NRS 629.051 is hereby amended to read as follows:

629.051 1. Except as otherwise provided in this section and in regulations adopted by the State Board of Health pursuant to NRS 652.135 with regard to the records of a medical laboratory and unless a longer period is provided by federal law, each ~~provider~~ *custodian* of health care *records* shall retain the health care records of ~~this or her~~ patients as part of ~~this or her~~ *the* regularly maintained records *of the custodian* for 5 years after their receipt or production. Health care records may be retained in written form, or by microfilm or any other recognized form of size reduction, including, without limitation, microfiche, computer disc, magnetic tape and optical disc, which does not adversely affect their use for the purposes of NRS 629.061. Health care records may be created, authenticated and stored in a computer system which meets the requirements of NRS 439.581 to 439.595, inclusive, and the regulations adopted pursuant thereto.

2. A provider of health care shall post, in a conspicuous place in each location at which the provider of health care performs health care services, a sign which discloses to patients that their health care records may be destroyed after the period set forth in subsection 1.

3. When a provider of health care performs health care services for a patient for the first time, the provider of health care shall deliver to the patient a written statement which discloses to the patient that the health care records of the patient may be destroyed after the period set forth in subsection 1.

4. If a provider of health care fails to deliver the written statement to the patient pursuant to subsection 3, the provider of health care shall deliver to the patient the written statement described in subsection 3 when the provider of health care next performs health care services for the patient.

5. In addition to delivering a written statement pursuant to subsection 3 or 4, a provider of health care may deliver such a written statement to a patient at any other time.

6. A written statement delivered to a patient pursuant to this section may be included with other written information delivered to the patient by a provider of health care.

7. A ~~provider~~ *custodian* of health care *records* shall not destroy the health care records of a person who is less than 23 years of age on the date of the proposed destruction of the records. The health care records of a person who has attained the age of 23 years may be destroyed in accordance with this section for those records which have been retained for at least 5 years or for any longer period provided by federal law.

8. The provisions of this section do not apply to a pharmacist.

9. The State Board of Health shall adopt:

(a) Regulations prescribing the form, size, contents and placement of the signs and written statements required pursuant to this section; and

(b) Any other regulations necessary to carry out the provisions of this section.

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

629.061 1. Each ~~provider~~ *custodian* of health care *records* 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;

(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;

(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; ~~for~~

(g) Any authorized representative or investigator of a state licensing board during the course of any investigation authorized by law ~~for~~; or

(h) Any coroner or medical examiner to identify a deceased person, determine a cause of death or perform other duties as authorized by law.

2. The records described in subsection 1 must be made available at a place within the depository convenient for physical inspection. Except as otherwise provided in subsection 3, if the records are located:

(a) Within this State, the ~~provider~~ *custodian of health care records* shall make any records requested pursuant to this section available for inspection within 10 working days after the request.

(b) Outside this State, the ~~provider~~ *custodian of health care records* shall make any records requested pursuant to this section available in this State for inspection within 20 working days after the request.

3. If the records described in subsection 1 are requested pursuant to paragraph (e), (f) ~~for~~ (g) or (h) of subsection 1 and the investigator, grand jury ~~for~~ authorized representative, coroner or medical examiner, as applicable, declares that exigent circumstances exist which require the immediate production of the records, the ~~provider~~ *custodian of health care records* shall make any records which are located:

(a) Within this State available for inspection within 5 working days after the request.

(b) Outside this State available for inspection within 10 working days after the request.

4. Except as otherwise provided in subsection 5, the ~~provider~~ *custodian* of health care *records* 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.

5. The ~~provider~~ *custodian* of health care *records* 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~~ *custodian* 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~~ *custodian* 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~~ *custodian* 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.

6. Each person who owns or operates an ambulance in this State shall make the 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

(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.

7. 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.

8. Subsection 7 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 or her 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 the 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.

9. A provider of health care, *custodian of health care records* or owner or operator of an ambulance and his or her 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.

10. 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) *"Health care records" has the meaning ascribed to it in NRS 629.021, but also includes any billing statement, ledger or other record of the amount charged for medical services or care provided to a patient.*

(c) "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.

~~(d)~~ (d) "Parent" means a natural or adoptive parent whose parental rights have not been terminated.

~~(e)~~ (e) "Personal representative" has the meaning ascribed to it in NRS 132.265.

Sec. 6. NRS 629.063 is hereby amended to read as follows:

629.063 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 ~~to~~ *created by* the provider of health care, or copies thereof, to the provider of health care.

2. A custodian of health care records who *is not otherwise licensed pursuant to title 54 of NRS and* 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~~ *more* than ~~\$10,000~~ *\$5,000* for each violation. ~~It~~ *as applied to a patient's entire health care record,* 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. ~~Any such action must be brought by the district attorney of the county in which the action is brought.~~

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;
- (c) A facility for skilled nursing, as defined in NRS 449.0039;
- (d) A hospital, as defined in NRS 449.012; or
- (e) A psychiatric hospital, as defined in NRS 449.0165.

Sec. 7. NRS 629.065 is hereby amended to read as follows:

629.065 1. Each ~~provider~~ **custodian** of health care **records** shall, upon request, make available to a law enforcement agent or district attorney the health care records of a patient which relate to a test of the blood, breath or urine of the patient if:

(a) The patient is suspected of having violated NRS 484C.110, 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425; and

(b) The records would aid in the related investigation.

➤ To the extent possible, the ~~provider of health care~~ **custodian** shall limit the inspection to the portions of the records which pertain to the presence of alcohol or a controlled substance, chemical, poison, organic solvent or another prohibited substance in the blood, breath or urine of the patient.

2. The records must be made available at a place within the depository convenient for physical inspection. Inspection must be permitted at all reasonable office hours and for a reasonable length of time. The ~~provider~~ **custodian** of health care **records** shall also furnish a copy of the records to each law enforcement agent or district attorney described in subsection 1 who requests the copy and pays the costs of reproducing the copy.

3. Records made available pursuant to this section may be presented as evidence during a related administrative or criminal proceeding against the patient.

4. A ~~provider~~ **custodian** of health care **records** and his or her 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.

5. As used in this section, "prohibited substance" has the meaning ascribed to it in NRS 484C.080.

Sec. 8. NRS 629.066 is hereby amended to read as follows:

629.066 1. After a patient provides to a provider of health care, and the provider of health care accepts from the patient, any information regarding a health care plan for the purpose of paying for a service which has been or may be rendered to the patient:

(a) The ~~provider~~ **custodian** of health care **records of the patient** shall maintain a record of the information provided by the patient; and

(b) If the provider of health care fails to submit any claim for payment of any portion of any charge pursuant to the terms of the health care plan, the provider of health care shall not request or require payment from the patient of any portion of the charge beyond the portion of the charge which the patient would have been required to pay pursuant to the terms of the health care plan if the provider of health care had submitted the claim for payment pursuant to the terms of the health care plan.

2. The provisions of paragraph (b) of subsection 1 do not apply to a claim if the patient provides information to the provider of health care which is inaccurate, outdated or otherwise causes the provider of health care to submit the claim in a manner which violates the terms of the health care plan.

3. Any provision of any agreement between a patient and a provider of health care which conflicts with the provisions of this section is void.

4. As used in this section, "health care plan" has the meaning ascribed to it in NRS 679B.520.

1 **Sec. 9.** NRS 629.068 is hereby amended to read as follows:

2 629.068 1. A ~~provider~~ *custodian* of health care *records* shall, upon request
3 of the Director of the Department of Corrections or the designee of the Director,
4 provide the Department of Corrections with a complete copy of the health care
5 records of an offender confined at the state prison.

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

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

9 (b) Appropriate procedures are utilized to protect the identity of the offender
10 from public disclosure.

11 3. A ~~provider~~ *custodian* of health care *records* and ~~any~~ *any* agent or
12 employee of ~~a provider of health care~~ *the custodian* are immune from civil
13 liability for a disclosure made in accordance with the provisions of this section.

14 **Sec. 9.5.** Chapter 630 of NRS is hereby amended by adding thereto a new
15 section to read as follows:

16 1. *If a licensee becomes unable to practice because of death, disability,*
17 *incarceration or any other incapacitation, the Board may take possession of the*
18 *health care records of patients of the licensee kept by the custodian of health care*
19 *records pursuant to NRS 629.051 to:*

20 (a) *Make the health care records of a patient available to the patient either*
21 *directly or through a third-party vendor; or*

22 (b) *Forward the health care records of a patient to the patient's subsequent*
23 *provider of health care.*

24 2. *A licensee shall post, in a conspicuous place in each location at which*
25 *the licensee provides health care services, a sign which discloses to patients that*
26 *their health care records may be accessed by the Board pursuant to subsection 1.*

27 3. *When a licensee provides health care services for a patient for the first*
28 *time, the licensee shall deliver to the patient a written statement which discloses*
29 *to the patient that the health care records of the patient may be accessed by the*
30 *Board pursuant to subsection 1.*

31 4. *The Board shall adopt:*

32 (a) *Regulations prescribing the form, size, contents and placement of the*
33 *sign and written statement required by this section; and*

34 (b) *Any other regulations necessary to carry out the provisions of this*
35 *section.*

36 5. *As used in this section:*

37 (a) *"Custodian of health care records" has the meaning ascribed to it in*
38 *section 1 of this act.*

39 (b) *"Health care records" has the meaning ascribed to it in NRS 629.021.*

40 **Sec. 10.** NRS 630.3062 is hereby amended to read as follows:

41 630.3062 1. The following acts, among others, constitute grounds for
42 initiating disciplinary action or denying licensure:

43 ~~1-1~~ (a) Failure to maintain timely, legible, accurate and complete medical
44 records relating to the diagnosis, treatment and care of a patient.

45 ~~2-1~~ (b) Altering medical records of a patient.

46 ~~3-1~~ (c) Making or filing a report which the licensee knows to be false, failing
47 to file a record or report as required by law or knowingly or willfully obstructing or
48 inducing another to obstruct such filing.

49 ~~4-1~~ (d) Failure to make the medical records of a patient available for
50 inspection and copying as provided in NRS 629.061 ~~1-~~

51 ~~—5-1~~ *, if the licensee is the custodian of health care records with respect to*
52 *those records.*

53 (e) Failure to comply with the requirements of NRS 630.3068.

~~16-1~~ (f) Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board within 30 days after the date the licensee knows or has reason to know of the violation.

~~17-1~~ (g) Failure to comply with the requirements of NRS 453.163 or 453.164.

2. As used in this section, "custodian of health care records" has the meaning ascribed to it in section 1 of this act.

Sec. 11. NRS 631.3485 is hereby amended to read as follows:

631.3485 1. The following acts, among others, constitute unprofessional conduct:

~~11-1~~ (a) Willful or repeated violations of the provisions of this chapter;

~~12-1~~ (b) Willful or repeated violations of the regulations of the State Board of Health, the State Board of Pharmacy or the Board of Dental Examiners of Nevada;

~~13-1~~ (c) Failure to pay the fees for a license; or

~~14-1~~ (d) Failure to make the health care records of a patient available for inspection and copying as provided in NRS 629.061 ~~14-1~~, *if the dentist or dental hygienist is the custodian of health care records with respect to those records.*

2. As used in this section, "custodian of health care records" has the meaning ascribed to it in section 1 of this act.

Sec. 12. NRS 633.131 is hereby amended to read as follows:

633.131 1. "Unprofessional conduct" includes:

(a) Knowingly or willfully making a false or fraudulent statement or submitting a forged or false document in applying for a license to practice osteopathic medicine or to practice as a physician assistant, or in applying for the renewal of a license to practice osteopathic medicine or to practice as a physician assistant.

(b) Failure of a person who is licensed to practice osteopathic medicine to identify himself or herself professionally by using the term D.O., osteopathic physician, doctor of osteopathy or a similar term.

(c) Directly or indirectly giving to or receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation for sending, referring or otherwise inducing a person to communicate with an osteopathic physician in his or her professional capacity or for any professional services not actually and personally rendered, except as otherwise provided in subsection 2.

(d) Employing, directly or indirectly, any suspended or unlicensed person in the practice of osteopathic medicine or in practice as a physician assistant, or the aiding or abetting of any unlicensed person to practice osteopathic medicine or to practice as a physician assistant.

(e) Advertising the practice of osteopathic medicine in a manner which does not conform to the guidelines established by regulations of the Board.

(f) Engaging in any:

(1) Professional conduct which is intended to deceive or which the Board by regulation has determined is unethical; or

(2) Medical practice harmful to the public or any conduct detrimental to the public health, safety or morals which does not constitute gross or repeated malpractice or professional incompetence.

(g) Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, otherwise than in the course of legitimate professional practice or as authorized by law.

(h) Habitual drunkenness or habitual addiction to the use of a controlled substance.

(i) Performing, assisting in or advising an unlawful abortion or the injection of any liquid silicone substance into the human body, other than the use of silicone oil to repair a retinal detachment.

(j) Knowingly or willfully disclosing a communication privileged pursuant to a statute or court order.

(k) Knowingly or willfully disobeying regulations of the State Board of Health, the State Board of Pharmacy or the State Board of Osteopathic Medicine.

(l) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any prohibition made in this chapter.

(m) Failure of a licensee to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

(n) Making alterations to the medical records of a patient that the licensee knows to be false.

(o) Making or filing a report which the licensee knows to be false.

(p) Failure of a licensee to file a record or report as required by law, or knowingly or willfully obstructing or inducing any person to obstruct such filing.

(q) Failure of a licensee to make medical records of a patient available for inspection and copying as provided by NRS 629.061 ~~+~~, *if the licensee is the custodian of health care records with respect to those records.*

(r) Providing false, misleading or deceptive information to the Board in connection with an investigation conducted by the Board.

2. It is not unprofessional conduct:

(a) For persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to practice osteopathic medicine in partnership under a partnership agreement or in a corporation or an association authorized by law, or to pool, share, divide or apportion the fees and money received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association;

(b) For two or more persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to receive adequate compensation for concurrently rendering professional care to a patient and dividing a fee if the patient has full knowledge of this division and if the division is made in proportion to the services performed and the responsibility assumed by each person; or

(c) For a person licensed to practice osteopathic medicine pursuant to the provisions of this chapter to form an association or other business relationship with an optometrist pursuant to the provisions of NRS 636.373.

3. As used in this section, "custodian of health care records" has the meaning ascribed to it in section 1 of this act.

Sec. 13. This act becomes effective on July 1, 2017.