Amendment No. 723

Senate Amendment to Senate Bill No. 40 First Reprint (BDR 40-415)
Proposed by: Senate Committee on Finance
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will ADD an appropriation where one does not currently exist in S.B. 40 R1.

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date
Adopted ☐	Lost ☐		Adopted ☐	Lost ☐	
Concurred In ☐	Not ☐		Concurred In ☐	Not ☐	
Receded ☐	Not ☐		Receded ☐	Not ☐	

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.

TPG/EGO Date: 5/21/2021

S.B. No. 40—Provides for the collection of certain data relating to health care.
(BDR 40-415)

SENATE BILL NO. 40–COMMITTEE ON HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE PATIENT PROTECTION COMMISSION)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Health and Human Services

SUMMARY—Provides for the collection of certain data relating to health care. (BDR 40-415)

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 health care; authorizing the Patient Protection Commission to request certain reports from a state or local governmental entity; requiring the Department of Health and Human Services to establish an all-payer claims database containing information relating to health insurance claims for benefits provided in this State **[**~~,~~**]** **under certain circumstances;** requiring certain insurers to submit data to the database; authorizing certain additional insurers to submit data to the database; providing for the release and use of data in the database under certain circumstances; requiring the Department to publish a report on the quality and cost of health care using data from the database; requiring the Department to submit certain other reports concerning the database to the Legislature; providing immunity from civil and criminal liability for certain persons and entities; authorizing the imposition of administrative penalties and other administrative sanctions for violations of certain requirements concerning the database; prescribing authorized uses for certain administrative penalties; requiring the Department to compile a report containing an inventory of certain data; **making an appropriation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Patient Protection Commission, which is made up of certain stakeholders in the delivery of health care. (NRS 439.908) Existing law requires the Commission to systematically review issues related to the health care needs of residents of this State and the quality, accessibility and affordability of health care. (NRS 439.916) Existing law: (1) authorizes the Executive Director of the Commission to request any information maintained by a state agency that is necessary for the performance of his or her duties; and (2) prohibits the Executive Director from disclosing confidential information

obtained from a state agency to any person or entity, including the Commission or a member thereof. (NRS 439.914) **Section 1** of this bill additionally authorizes the Commission to request not more than two reports each year concerning certain issues relating to health care from a state or local governmental entity. **Section 1** requires any governmental entity that receives such a request to submit the report to provide the report to the Executive Director of the Commission and a copy of the report to the Attorney General, to the extent that the entity has resources to compile the report and disclosure of the information requested would not violate the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

Existing law provides for the collection and maintenance of data and the issuance of reports concerning: (1) the prices of prescription drugs for the treatment of diabetes and asthma; and (2) cancer. (NRS 439B.600-439B.695, 457.230-457.280) **Section 9** of this bill requires **, to the extent that federal money is available for this purpose,** the Department of Health and Human Services to establish an all-payer claims database of information relating to health insurance claims resulting from medical, dental or pharmacy benefits provided in this State. **Sections 3-8.5** of this bill define terms relevant to the all-payer claims database. **Section 9**: (1) requires the Department to adopt regulations to establish an advisory committee to make recommendations concerning the collection, analysis and reporting of data in the database, secure access to such data and the release of such data; and (2) authorizes the Department to establish an advisory committee to assist the Department in establishing and maintaining the database. **Section 10** of this bill requires any public or private insurer that provides health benefits and is regulated under state law, with certain exceptions, to submit data to the database. **Section 10** also authorizes certain insurers that are regulated under federal law to submit data to the database. **Section 10** requires any entity submitting information to the database to remove information that can be used to directly identify a patient and instead assign a unique identifier that can be used to track data pertaining to a specific patient without identifying the patient.

Sections 11 and 19 of this bill provide for the confidentiality of the data contained in the database. **Section 12** of this bill requires a person or entity that wishes to obtain data from the database to submit a request to the Department. **Section 13** of this bill: (1) authorizes the Department to access and use information in the database; and (2) requires the Department to release the information in the database to the Attorney General for purposes relating to unfair or deceptive trade practices. **Section 13** authorizes the release from the database of: (1) de-aggregated data to certain governmental entities or an entity that submits information to the database pursuant to **section 10**; or (2) aggregated data to other persons and entities. **Section 13** also prohibits a person or entity to whom data is released from using or disclosing the data in a manner not specified in the request made by the person or entity. **Section 13** requires any published document that contains or uses data from the database to contain certain information. **Section 14** of this bill requires the Department to publish a report at least annually concerning the quality, efficiency and cost of health care in this State using data from the database. **Sections 15 and 21** of this bill require the Department to submit certain reports to the Legislature concerning the establishment, operation and funding of the database.

Section 16 of this bill provides an exemption from civil and criminal liability to: (1) a person or entity that provides information to the Department, including data submitted to the database, in good faith; and (2) the Department and its members, officers and employees for failing to provide data from the database or providing incorrect data from the database. **Section 17** of this bill requires the Department to adopt regulations necessary for the establishment and maintenance of the database. **Section 17** requires such regulations to establish administrative penalties to be imposed against persons and entities that fail to comply with provisions of law or regulations governing the database. **Section 17** authorizes the Department to use those administrative penalties to: (1) maintain the all-payer claims database and the program to collect and maintain data concerning prescription drugs; and (2) establish and carry out programs to educate patients concerning ways to reduce the cost of health care and prescription drugs. **Section 18** of this bill authorizes the use of administrative penalties collected for failure to comply with requirements to provide certain information relating to prescription drugs for similar purposes. **Section 19.5** of this bill also authorizes the Commissioner of Insurance to refuse to continue, suspend, limit or revoke an insurer's certificate of authority for failure to comply with provisions of law or regulations governing the database.

Section 20 of this bill requires the Department of Health and Human Services and the Division of Insurance of the Department of Business and Industry to develop and submit to the Patient Protection Commission and the Legislature a report containing an inventory of certain types of data reported to the Department of Health and Human Services or the Division of Insurance of the Department of Business and Industry.

Section 19.7 of this bill makes an appropriation to the Division of Health Care Financing and Policy of the Department of Health and Human Services for the development of the all-payer claims database if the database is established pursuant to section 9.

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

Section 1. NRS 439.916 is hereby amended to read as follows:

439.916 1. The Commission shall systematically review issues related to the health care needs of residents of this State and the quality, accessibility and affordability of health care, including, without limitation, prescription drugs, in this State. The review must include, without limitation:

(a) Comprehensively examining the system for regulating health care in this State, including, without limitation, the licensing and regulation of health care facilities and providers of health care and the role of professional licensing boards, commissions and other bodies established to regulate or evaluate policies related to health care.

(b) Identifying gaps and duplication in the roles of such boards, commissions and other bodies.

(c) Examining the cost of health care and the primary factors impacting those costs.

(d) Examining disparities in the quality and cost of health care between different groups, including, without limitation, minority groups and other distinct populations in this State.

(e) Reviewing the adequacy and types of providers of health care who participate in networks established by health carriers in this State and the geographic distribution of the providers of health care who participate in each such network.

(f) Reviewing the availability of health benefit plans, as defined in NRS 687B.470, in this State.

(g) Reviewing the effect of any changes to Medicaid, including, without limitation, the expansion of Medicaid pursuant to the Patient Protection and Affordable Care Act, Public Law 111-148, on the cost and availability of health care and health insurance in this State.

(h) Reviewing proposed and enacted legislation, regulations and other changes to state and local policy related to health care in this State.

(i) Researching possible changes to state or local policy in this State that may improve the quality, accessibility or affordability of health care in this State, including, without limitation:

(1) The use of purchasing pools to decrease the cost of health care;

(2) Increasing transparency concerning the cost or provision of health care;

(3) Regulatory measures designed to increase the accessibility and the quality of health care, regardless of geographic location or ability to pay;

(4) Facilitating access to data concerning insurance claims for medical services to assist in the development of public policies;

(5) Resolving problems relating to the billing of patients for medical services;

(6) Leveraging the expenditure of money by the Medicaid program and reimbursement rates under Medicaid to increase the quality and accessibility of health care for low-income persons; and

(7) Increasing access to health care for uninsured populations in this State, including, without limitation, retirees and children.

(j) Monitoring and evaluating proposed and enacted federal legislation and regulations and other proposed and actual changes to federal health care policy to determine the impact of such changes on the cost of health care in this State.

(k) Evaluating the degree to which the role, structure and duties of the Commission facilitate the oversight of the provision of health care in this State by the Commission and allow the Commission to perform activities necessary to promote the health care needs of residents of this State.

(l) Making recommendations to the Governor, the Legislature, the Department of Health and Human Services, local health authorities and any other person or governmental entity to increase the quality, accessibility and affordability of health care in this State, including, without limitation, recommendations concerning the items described in this subsection.

2. ***The Commission may request that any state or local governmental entity submit not more than two reports each year containing or analyzing information that is not confidential by law concerning the cost of health care, consolidation among entities that provide or pay for health care or other issues related to access to health care. To the extent that a governmental entity from which such a report is requested has the resources to compile the report and the disclosure of the information requested is authorized by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, the governmental entity shall provide the report to the Executive Director of the Commission and submit a copy of the report to the Attorney General.***

3. As used in this section:

(a) "Health carrier" has the meaning ascribed to it in NRS 687B.625.

(b) "Network" has the meaning ascribed to it in NRS 687B.640.

Sec. 2. Chapter 439B of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 17, inclusive, of this act.

Sec. 3. ***As used in sections 3 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 8.5, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 4. ***"All-payer claims database" means the all-payer claims database established pursuant to section 9 of this act.***

Sec. 4.5. ***"Covered entity" has the meaning ascribed to it in 45 C.F.R. § 160.103.***

Sec. 5. ***"Direct patient identifier" means data that directly identifies a patient, including, without limitation, a name, telephone number, social security number, number associated with a medical record, health plan beneficiary number or electronic mail address.***

Sec. 6. (Deleted by amendment.)

Sec. 7. ***"Proprietary financial information" means data that discloses or allows the determination of:***

1. A specific term of a contract, discount or other agreement between any or all of a provider of health care, a health facility, a manufacturer of prescription drugs and an entity described in section 10 of this act; or

2. An internal fee schedule or other unique pricing mechanism used by a provider of health care, a health facility or an entity described in section 10 of this act.

Sec. 8. *"Provider of health care" has the meaning ascribed to it in NRS 629.031.*

Sec. 8.5. *"Unique identifier" means an identifier that is guaranteed to be unique for a patient and can be used to track information relating to the patient but is not a direct patient identifier.*

Sec. 9. *1. The Department shall , to the extent that federal money is available for this purpose, establish an all-payer claims database of information relating to health insurance claims resulting from medical, dental or pharmacy benefits provided in this State.*

2. ~~[The]~~ If the Department establishes an all-payer claims database pursuant to subsection 1, the Department shall:

(a) Establish a secure process for uploading data to the database pursuant to section 10 of this act. When establishing that process, the Department shall consider the time and cost incurred to upload data to the database.

(b) Establish and carry out a process to review the data submitted to the database to:

(1) Ensure the accuracy of the data and the consistency of records; and

(2) Identify and remove duplicate records.

3. ~~[The]~~ If the Department ~~[,]~~ establishes an all-payer claims database pursuant to subsection 1, the Department:

(a) Shall adopt regulations to establish an advisory committee to make recommendations to the Department concerning the collection, analysis and reporting of data in the all-payer claims database, secure access to such data and the release of such data pursuant to sections 3 to 17, inclusive, of this act.

(b) May adopt regulations to establish any other advisory committee if necessary to assist the Department in carrying out the provisions of sections 3 to 17, inclusive, of this act.

4. The membership of any advisory committee established pursuant to subsection 3 must include, without limitation, representatives of providers of health care, health facilities, health authorities, as defined in NRS 439.005, health maintenance organizations, private insurers, nonprofit organizations that represent consumers of health care services and each of the two entities that submit data concerning the largest number of claims to the database.

Sec. 10. *If an all-payer claims database is established pursuant to section 9 of this act:*

1. Except as otherwise provided in this section, each health carrier, governing body of a local governmental agency that provides health insurance through a self-insurance reserve fund pursuant to NRS 287.010 or entity required by the regulations adopted pursuant to section 17 of this act to submit data to the database and the Public Employees' Benefits Program shall submit to the all-payer claims database the data prescribed by the Department pursuant to section 17 of this act in the format prescribed by the Department pursuant to that section. The provisions of this subsection do not apply to:

(a) An issuer of insurance that only provides limited-scope dental or vision benefits or coverage that is only for a specified disease or illness, with respect to such coverage;

(b) An issuer of a Medicare supplemental policy, with respect to such a policy; or

(c) Any health carrier or other entity that provides health coverage to a total of less than 1,000 residents of this State.

2. A provider of health coverage for federal employees, a provider of health coverage that is subject to the Employee Retirement Income Security Act of 1974 or the administrator of a Taft-Hartley trust formed pursuant to 29 U.S.C. § 186(c)(5) are not required but may submit to the all-payer claims database the data prescribed by the Department pursuant to section 17 of this act.

3. Before submitting data to the all-payer claims database pursuant to subsection 1 or 2, an entity described in either of those subsections shall:

(a) Remove all direct patient identifiers from the data; and

(b) Assign a unique identifier to all data concerning a specific patient.

4. As used in this section:

(a) "Health carrier" means an entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the Commissioner of Insurance, that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including, without limitation, a sickness and accident health insurance company, a health maintenance organization, a nonprofit hospital and health service corporation or any other entity providing a plan of health insurance, health benefits or health care services.

(b) "Medicare supplemental policy" has the meaning ascribed to it in 42 C.F.R. § 403.205 and additionally includes policies offered by public entities that otherwise meet the requirements of that section.

Sec. 11. *1. Except as otherwise provided in subsection 3 and section 13 of this act, data contained in the all-payer claims database , if established pursuant to section 9 of this act, is confidential and is not a public record or subject to subpoena.*

2. The Department shall comply with the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and any regulations adopted pursuant thereto as if the Department were a covered entity maintaining protected health information, as defined in 45 C.F.R. § 160.103, with regard to the collection of data pursuant to section 10 of this act, the storage of data in the all-payer claims database and the procedures for releasing data from the all-payer claims database pursuant to section 13 of this act.

3. To the extent authorized by federal law, the Department may use data contained in the all-payer claims database in any proceeding to enforce the provisions of sections 3 to 17, inclusive, of this act.

Sec. 12. *To obtain data ~~[from the all-payer claims database]~~ pursuant to subsection 3 of section 13 of this act ~~[,]~~ from the all-payer claims database, if established pursuant to section 9 of this act, a person or entity must submit a request to the Department. The request must include, without limitation:*

1. A description of the data the person or entity wishes to receive;

2. The purpose for requesting the data;

3. A description of the proposed use of the data, including, without limitation:

(a) The methodology of any study that will be conducted and any variables that will be used; and

(b) The names of any persons or entities to whom the applicant plans to disclose data from the all-payer claims database and the reasons for the proposed disclosure;

4. The measures that the requester plans to take to ensure the security of the data and prevent unauthorized use of the data in accordance with section 13 of this act and the regulations adopted pursuant to section 17 of this act; and

5. The method by which the data will be stored, destroyed or returned to the Department at the completion of the activities for which the data will be used.

Sec. 13. *If the all-payer claims database is established pursuant to section 9 of this act:*

1. The Department or any Division thereof may access and use data from the all-payer claims database for any purpose.

2. The Department shall release data from the all-payer claims database to the Attorney General upon request for the purpose of enforcing the provisions of chapters 598 and 598A of NRS.

3. Except as otherwise provided in subsection 4, the Department may release data from the all-payer claims database that does not contain proprietary financial information:

(a) In de-aggregated form with unique identifiers upon the submission of a request that meets the requirements of section 12 of this act to:

(1) A state or federal governmental entity, including, without limitation, a college or university within the Nevada System of Higher Education; or

(2) Any entity that submits data to the database pursuant to section 10 of this act.

(b) In aggregated form to any person or entity approved by the Department that has submitted a request that meets the requirements of section 12 of this act.

4. The Department shall not release data from the all-payer claims database in any form to any entity that is required or authorized to submit data to the all-payer claims database pursuant to section 10 of this act and fails to submit substantially complete data in accordance with the regulations adopted pursuant to section 17 of this act.

5. A person or entity that receives data from the all-payer claims database pursuant to this section:

(a) Shall comply with any regulations of the Department adopted pursuant to section 17 of this act.

(b) Shall not disclose or use the data in any manner other than as described in the request submitted pursuant to section 12 of this act.

6. The Department shall notify each person or entity to whom data is released pursuant to subsection 3 of the percentage of residents of this State who have health coverage for which data was submitted to the all-payer claims database for the time period to which the released data pertains. Any published document that contains or uses data from the all-payer claims database, including, without limitation, the report published by the Department pursuant to section 14 of this act, must state the percentage of residents of this State who have health coverage for which data was submitted to the database for the time period to which the data contained in or used by the published document pertains.

Sec. 14. *1. The Department shall, at least annually, publish a report concerning the quality, efficiency and cost of health care in this State based on the data in the all-payer claims database ~~[.]~~ , if the all-payer claims database is established pursuant to section 9 of this act. Such a report must be peer-reviewed by entities that submit data pursuant to section 10 of this act before the report is released. The Department shall submit the report to:*

(a) The Governor;

(b) The Patient Protection Commission created by NRS 439.908; and

(c) The Director of the Legislative Counsel Bureau for transmittal to the Legislative Committee on Health Care and the next regular session of the Legislature.

2. A report published pursuant to subsection 1 must, where feasible, separate data by demographics, income, health status and the geography of, and

the language spoken by, patients to assist in the identification of variations in the efficiency and quality of care.

3. Any comparison of cost among providers of health care or health care systems presented in a report published pursuant to subsection 1 must account for differences in costs attributable to populations served, severity of illness, subsidies for uninsured patients and recipients of Medicaid and Medicare and expenses for educating providers of health care, where applicable.

4. A report published pursuant to subsection 1 must not:

(a) Contain proprietary financial information. Such a report may contain data concerning aggregate costs calculated using proprietary financial information if the manner in which the data is displayed does not disclose proprietary financial information.

(b) Include in any comparison of the performance of providers of health care information concerning a provider of health care who is a solo practitioner or practices in a group of fewer than four providers.

5. A report published pursuant to subsection 1 must not contain information identified as relating to a specific provider of health care, health facility or entity that submits data pursuant to section 10 of this act unless the provider of health care, health facility or entity to which the information pertains is allowed to view the report before publication, request corrections of any errors in the information and comment on the reasonableness of the conclusions of the report.

6. On or before October 31 of each year, the Department shall publish on an Internet website maintained by the Department a list of reports the Department intends to publish pursuant to this section during the next calendar year. The Department may solicit public comment concerning that list.

Sec. 15. *If the all-payer claims database is established pursuant to section 9 of this act:*

1. On or before December 31 of each even-numbered year, the Department shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a report concerning the cost, performance and effectiveness of the all-payer claims database and any recommendations to improve the all-payer claims database.

2. On or before July 1 and December 31 of each year, the Department shall:

(a) Compile a report of any grants received by the Department to carry out the provisions of sections 3 to 17, inclusive, of this act; and

(b) Submit the report to the Director of the Legislative Counsel Bureau for transmittal to:

(1) On December 31 of an even-numbered year, the next regular session of the Legislature; and

(2) In all other cases, the Interim Finance Committee.

Sec. 16. *1. No person or entity providing information to the Department, including, without limitation, data submitted to the all-payer claims database , if established pursuant to section 9 of this act, in accordance with sections 3 to 17, inclusive, of this act, may be held liable in a civil or criminal action for disclosing confidential information unless the person or entity has done so in bad faith or with malicious purpose.*

2. The Department and its members, officers and employees are not liable in any civil or criminal action for any damages resulting from any act, omission, error or technical problem that causes incorrect information from the all-payer claims database to be provided to any person or entity.

Sec. 17. *If the all-payer claims database is established pursuant to section 9 of this act:*

1. The Department shall adopt regulations that prescribe:

(a) The data that must be submitted to the all-payer claims database pursuant to section 10 of this act, the format for submitting such data and the date by which such data must be submitted. Those regulations must align with applicable nationally and regionally recognized standards for all-payer claims databases, where applicable and to the extent that those standards do not conflict with each other or the provisions of sections 3 to 17, inclusive, of this act.

(b) The privacy and security of data maintained in the all-payer claims database and the procedure for releasing data from the all-payer claims database pursuant to subsection 3 of section 13 of this act, which must ensure compliance with subsection 2 of section 11 of this act.

(c) The use of data released from the all-payer claims database, including, without limitation, requirements concerning the reporting and publication of information from the database.

(d) Administrative penalties to be assessed against any person or entity who violates any provision of sections 3 to 17, inclusive, of this act or the regulations adopted pursuant thereto. Any penalties for the failure to comply with the requirements of section 10 of this act or the regulations adopted pursuant to this section concerning the submission of data to the all-payer claims database must not exceed $5,000 for each day of such failure.

2. The Department may adopt:

(a) Regulations that require entities that provide health coverage in this State, in addition to the entities required by section 10 of this act but not including entities exempt from reporting pursuant to subsection 1 of that section, to upload data to the all-payer claims database; and

(b) Any other regulations necessary to carry out the provisions of sections 3 to 17, inclusive, of this act.

3. The Department may:

(a) Enter into any contract or agreement necessary to carry out the provisions of sections 3 to 17, inclusive, of this act; and

(b) Accept any gifts, grants and donations for the purpose of carrying out the provisions of sections 3 to 17, inclusive, of this act.

4. Any contract or agreement entered into pursuant to paragraph (a) of subsection 3 must:

(a) Prohibit the contractor from collecting data containing direct patient identifiers or using data for any purpose not specified by the contract; and

(b) Require the contractor to:

(1) Obtain certification by the HITRUST Alliance or its successor organization and maintain such certification for the term of the contract;

(2) Comply with the requirements of subsection 2 of section 11 of this act to the same extent as the Department; and

(3) Comply with any applicable standards prescribed by the National Institute of Standards and Technology of the United States Department of Commerce.

5. Any money collected as administrative penalties under the regulations adopted pursuant to this section must be accounted for separately and used by the Department to:

(a) Carry out the provisions of NRS 439B.600 to 439B.695, inclusive, and sections 3 to 17, inclusive, of this act; and

(b) Establish and carry out programs to educate patients concerning ways to reduce the cost of health care and prescription drugs.

Sec. 18. NRS 439B.695 is hereby amended to read as follows:

439B.695 1. If a pharmacy that is licensed under the provisions of chapter 639 of NRS and is located within the State of Nevada fails to provide to the Department the information required to be provided pursuant to NRS 439B.655 or fails to provide such information on a timely basis, and the failure was not caused by excusable neglect, technical problems or other extenuating circumstances, the Department may impose against the pharmacy an administrative penalty of not more than $500 for each day of such failure.

2. If a manufacturer fails to provide to the Department the information required by NRS 439B.635, 439B.640 or 439B.660, a pharmacy benefit manager fails to provide to the Department the information required by NRS 439B.645, a nonprofit organization fails to post or provide to the Department, as applicable, the information required by NRS 439B.665 or a manufacturer, pharmacy benefit manager or nonprofit organization fails to post or provide, as applicable, such information on a timely basis, and the failure was not caused by excusable neglect, technical problems or other extenuating circumstances, the Department may impose against the manufacturer, pharmacy benefit manager or nonprofit organization, as applicable, an administrative penalty of not more than $5,000 for each day of such failure.

3. If a pharmaceutical sales representative fails to comply with the requirements of NRS 439B.660, the Department may impose against the pharmaceutical sales representative an administrative penalty of not more than $500 for each day of such failure.

4. Any money collected as administrative penalties pursuant to this section must be accounted for separately and used by the Department to ~~[establish]~~ ***:***

(a) Carry out the provisions of NRS 439B.600 to 439B.695, inclusive, and sections 3 to 17, inclusive, of this act; and

(b) Establish and carry out programs to ~~[provide]~~ ***:***

(1) Educate patients concerning ways to reduce the cost of health care and prescription drugs; and

(2) Provide education concerning asthma and diabetes and prevent those diseases.

Sec. 19. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 119A.677, 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, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105,

281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207, 439.4941, 439.840, 439.914, 439B.420, 439B.754, 439B.760, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188, 453.164, 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, 480.535, 480.545, 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.3415, 632.405, 633.283, 633.301, 633.4715, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.221, 641.325, 641A.191, 641A.262, 641A.289, 641B.170, 641B.282, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, ***and section 11 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, including, without limitation, electronically, the confidential information from the information included in the public book or record that is not otherwise confidential.

4. If requested, a governmental entity shall provide a copy of a public record in an electronic format by means of an electronic medium. Nothing in this subsection requires a governmental entity to provide a copy of a public record in an electronic format or by means of an electronic medium if:

(a) The public record:

(1) Was not created or prepared in an electronic format; and

(2) Is not available in an electronic format; or

(b) Providing the public record in an electronic format or by means of an electronic medium would:

(1) Give access to proprietary software; or

(2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.

5. 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 the medium that is requested 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. 19.5. NRS 680A.200 is hereby amended to read as follows:

680A.200 1. Except as otherwise provided in NRS 616B.472, the Commissioner may refuse to continue or may suspend, limit or revoke an insurer's certificate of authority if the Commissioner finds after a hearing thereon, or upon waiver of hearing by the insurer, that the insurer has:

(a) Violated or failed to comply with any lawful order of the Commissioner;

(b) Conducted business in an unsuitable manner;

(c) Willfully violated or willfully failed to comply with any lawful regulation of the Commissioner; or

(d) Violated any provision of this Code other than one for violation of which suspension or revocation is mandatory.

➥ In lieu of such a suspension or revocation, the Commissioner may levy upon the insurer, and the insurer shall pay forthwith, an administrative fine of not more than $2,000 for each act or violation.

2. Except as otherwise provided in chapter 696B of NRS, the Commissioner shall suspend or revoke an insurer's certificate of authority on any of the following grounds if the Commissioner finds after a hearing thereon that the insurer:

(a) Is in unsound condition, is being fraudulently conducted, or is in such a condition or is using such methods and practices in the conduct of its business as to render its further transaction of insurance in this State currently or prospectively hazardous or injurious to policyholders or to the public.

(b) With such frequency as to indicate its general business practice in this State:

(1) Has without just cause failed to pay, or delayed payment of, claims arising under its policies, whether the claims are in favor of an insured or in favor of a third person with respect to the liability of an insured to the third person; or

(2) Without just cause compels insureds or claimants to accept less than the amount due them or to employ attorneys or to bring suit against the insurer or such an insured to secure full payment or settlement of such claims.

(c) Refuses to be examined, or its directors, officers, employees or representatives refuse to submit to examination relative to its affairs, or to produce its books, papers, records, contracts, correspondence or other documents for examination by the Commissioner when required, or refuse to perform any legal obligation relative to the examination.

(d) Except as otherwise provided in NRS 681A.110, has reinsured all its risks in their entirety in another insurer.

(e) Has failed to pay any final judgment rendered against it in this State upon any policy, bond, recognizance or undertaking as issued or guaranteed by it, within 30 days after the judgment became final or within 30 days after dismissal of an appeal before final determination, whichever date is the later.

3. ***In addition to the grounds specified in subsections 1 and 2, the Commissioner may refuse to continue or may suspend, limit or revoke an insurer's certificate of authority if the Commissioner finds after a hearing thereon, or upon waiver of hearing by the insurer, that the insurer has failed to comply with any provision of sections 3 to 17, inclusive, of this act, if applicable, or any applicable regulation adopted pursuant thereto.***

4. The Commissioner may, without advance notice or a hearing thereon, immediately suspend the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation or other delinquency proceedings have been commenced in any state by the public officer who supervises insurance for that state.

~~[4.]~~ ***5.*** No proceeding to suspend, limit or revoke a certificate of authority pursuant to this section may be maintained unless it is commenced by the giving of notice to the insurer within 5 years after the occurrence of the charged act or omission. This limitation does not apply if the Commissioner finds fraudulent or willful evasion of taxes.

Sec. 19.7. **1. There is hereby appropriated from the State General Fund to the Division of Health Care Financing and Policy of the Department of Health and Human Services for the development of the all-payer claims database, if the database is established pursuant to section 9 of this act, the following sums:**

For the Fiscal Year 2021-2022 ..... $24,970

For the Fiscal Year 2022-2023 ..... $300,188

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2022, and September 15, 2023, respectively, by either the entity

to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2022, and September 15, 2023, respectively.

Sec. 20. On or before July 1, 2022, the Department of Health and Human Services shall, in consultation with the Division of Insurance of the Department of Business and Industry:

1. Develop a report containing an inventory of each category of data reported to the Department of Health and Human Services or the Division of Insurance of the Department of Business and Industry that could be used to analyze trends in the cost of health care, consolidation among entities that provide or pay for health care, disparities in access to health care or health outcomes related to race, ethnicity or social determinants of health or other issues related to access to health care; and

2. Submit the report to the Patient Protection Commission created by NRS 439.908 and the Director of the Legislative Counsel Bureau for transmittal to the Legislative Committee on Health Care.

Sec. 21. 1. On or before December 1, 2021, and December 1, 2022, the Department of Health and Human Services shall **[**:**]** **, if the all-payer claims database is established pursuant to section 9 of this act:**

(a) Develop a report concerning the implementation of sections 3 to 17, inclusive, of this act, including, without limitation, the cost of implementing the all-payer claims database and the technical progress made toward full implementation of the all-payer claims database; and

(b) Submit the report to the Patient Protection Commission created by NRS 439.908 and the Director of the Legislative Counsel Bureau for transmittal to:

(1) In 2021, the Legislative Committee on Health Care and the Interim Finance Committee.

(2) In 2022, the next regular session of the Legislature.

2. As used in this section, "all-payer claims database" has the meaning ascribed to it in section 4 of this act.

Sec. 21.5. 1. The Department of Health and Human Services shall not release any data **[**~~from the all-payer claims database~~**]** pursuant to subsection 3 of section 13 of this act **from the all-payer claims database, if the database is established pursuant to section 9 of this act,** until 6 months after the approval by the Legislative Commission or the Subcommittee to Review Regulations pursuant to NRS 233.067 of regulations adopted pursuant to section 17 of this act relating to the collection, privacy and security of data.

2. As used in this section, "all-payer claims database" has the meaning ascribed to it in section 4 of this act.

Sec. 22. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 23. 1. This section becomes effective upon passage and approval.

2. Sections 1, 18 **[**~~, 20, 21, 21.5~~**]** and **19.7 to** 22 **, inclusive,** of this act become effective on July 1, 2021.

3. Sections 2 to 17, inclusive, 19 and 19.5 of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2022, for all other purposes.