

ASSEMBLY BILL NO. 7—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE PATIENT PROTECTION COMMISSION)

PREFILED NOVEMBER 16, 2022

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to electronic health records. (BDR 40-381)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§ 2)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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; expanding immunity from certain liability for health care providers who use a health information exchange; requiring certain health care records to be created, authenticated and stored on a computer system that meets certain requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a health care provider who with reasonable care relies upon an apparently genuine electronic health record accessed from a health information exchange to make a decision concerning the provision of health care to a patient is immune from civil or criminal liability for the decision if: (1) the electronic health record is inaccurate; (2) the inaccuracy was not caused by the health care provider; (3) the inaccuracy resulted in an inappropriate health care decision; and (4) the health care decision was appropriate based upon the information contained in the inaccurate electronic health record. (NRS 439.593)

Section 1 of this bill expands this immunity from liability to also apply to any health care provider who: (1) submits an apparently genuine electronic health record to a health information exchange; (2) accesses an apparently genuine electronic health record from a health information exchange; or (3) utilizes or discloses an apparently genuine electronic health record accessed from a health information exchange.

Existing law authorizes the creation, authentication and storage of health care records on a computer system that is part of a health information exchange.



(NRS 629.051) Beginning on January 1, 2028, **sections 2 and 4** of this bill require, with certain exceptions, the creation, authentication and storage of health care records on a computer system that is part of a health information exchange and allows patients to access and forward their health care records electronically.

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

Section 1. NRS 439.593 is hereby amended to read as follows:
439.593 A health care provider who with reasonable care *submits an apparently genuine electronic health record to a health information exchange, accesses an apparently genuine electronic health record from a health information exchange or utilizes, discloses* or relies upon an apparently genuine electronic health record accessed from a health information exchange ~~{to make a decision concerning the provision of health care to a patient}~~ is immune from civil or criminal liability for ~~{the}~~ *any* decision *concerning the provision of health care to a patient* if:

1. The electronic health record is inaccurate;
2. The inaccuracy was not caused by the health care provider;
3. The inaccuracy resulted in an inappropriate health care decision; and
4. The health care decision was appropriate based upon the information contained in the inaccurate electronic health record.

Sec. 2. 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 custodian of health care records shall retain the health care records of patients as part of 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}~~ *Except as otherwise provided in NRS 439.591, health* care records ~~{may}~~ *must* be created, authenticated and stored in a computer system which ~~{meets}~~ :

(a) Meets the requirements of NRS 439.581 to 439.595, inclusive, and the regulations adopted pursuant thereto ~~{}~~ ; *and*

(b) Allows patients to access their health care records electronically and forward their health care records electronically to other persons.



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 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. 3. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 4. 1. This section and sections 1 and 3 of this act become effective upon passage and approval.

2. Section 2 of this act becomes effective on January 1, 2028.

