

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 (§§ 1.3, 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; authorizing the Director of the Department of Health and Human Services to contract with multiple health information exchanges to perform certain functions; requiring the Director to prescribe certain standards governing the maintenance and exchange of electronic health records; expanding immunity from certain liability for health care providers who use a health information exchange; requiring medical facilities and providers of health care to store, transmit and exchange health records electronically; making an appropriation; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Existing law authorizes the Director of the Department of Health and Human  
2 Services to contract with not more than one health information exchange to be  
3 responsible for compiling statewide master indexes of patients, health care  
4 providers and payers. (NRS 439.587) **Section 1** of this bill authorizes the Director  
5 to contract with multiple health information exchanges to perform those functions.  
6 **Section 1** also removes a requirement that the Director encourage the use of health  
7 information exchanges and prohibits the Director from requiring any person to use  
8 a health information exchange.



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 1.1** of this bill expands this immunity from liability to also apply to any health care provider who transmits, accesses, utilizes, discloses, relies upon or provides to the patient any apparently genuine electronic health record in accordance with applicable law and regulations. **Section 1.2** of this bill provides that transmitting, accessing, utilizing or disclosing an electronic health record is not an unfair trade practice.

Existing law: (1) provides for the regulation of medical facilities; and (2) establishes requirements governing the maintenance of the health records of providers of health care. (Chapter 449 of NRS; NRS 629.051-629.069) Beginning on January 1, 2028, **sections 1.3 and 2** of this bill require such facilities and providers of health care to maintain, transmit and exchange health records electronically in a manner that: (1) allows patients to electronically access their health records directly from the facility or custodian of the records and forward such records electronically to other persons and entities; and (2) allows for the interoperability of health records with the electronic health records and systems of other facilities and providers of health care.

**Section 2.5** of this bill makes an appropriation to the Department to award grants to certain small facilities and providers of health care who work in small business settings to assist in compliance with the requirements of **sections 1.3 and 2**. **Section 1** of this bill requires the Director to prescribe standards for the electronic maintenance and exchange of such records. **Sections 1.4-1.9** of this bill make conforming changes to indicate the proper placement of and provide for the enforcement of **section 1.3**.

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

**Section 1.** NRS 439.587 is hereby amended to read as follows:  
439.587 1. The Director is the state authority for health information technology. The Director shall:

(a) Ensure that a health information exchange complies with the specifications and protocols for exchanging electronic health records, health-related information and related data prescribed pursuant to the provisions of the Health Information Technology for Economic and Clinical Health Act of 2009, 42 U.S.C. §§ 300jj et seq. and 17901 et seq., and other applicable federal and state law;

~~(b) Encourage the use of a health information exchange by health care providers, payers and patients;~~

~~—(c)~~ Prescribe by regulation standards for the electronic *maintenance*, transmittal *and exchange* of electronic health records, prescriptions, health-related information, electronic signatures and



requirements for electronic equivalents of written entries or written approvals in accordance with federal law;

~~[(d)]~~ (c) Prescribe by regulation rules governing the ownership, management and use of electronic health records, health-related information and related data retained or shared by a health information exchange; and

~~[(e)]~~ (d) Prescribe by regulation, in consultation with the State Board of Pharmacy, standards for the electronic transmission of prior authorizations for prescription medication using a health information exchange.

2. The Director may establish or contract with ~~[not more than]~~ one *or more* health information ~~[exchange to serve as the statewide health information exchange]~~ *exchanges* to be responsible for compiling statewide master indexes of patients, health care providers and payers. The Director may by regulation prescribe the requirements for *such* a ~~[statewide]~~ health information exchange, including, without limitation, the procedure by which any patient, health care provider or payer master index created pursuant to any contract is transferred to the State upon termination of the contract.

3. The Director may enter into contracts, apply for and accept available gifts, grants and donations, and adopt such regulations as are necessary to carry out the provisions of NRS 439.581 to 439.595, inclusive.

*4. The regulations adopted pursuant to this section and NRS 439.589 must not require any person or entity, other than the Department, to use a health information exchange.*

**Sec. 1.1.** NRS 439.593 is hereby amended to read as follows:

439.593 A health care provider who with reasonable care *transmits, accesses, utilizes, discloses,* relies upon *or provides to a patient* 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]~~ *in accordance with NRS 439.581 to 439.595, inclusive, and the regulations adopted pursuant thereto* is immune from civil or criminal liability for ~~[the]~~ *any* decision *concerning the provision of health care to a patient and any civil or criminal liability resulting from the provision of an apparently genuine electronic health record 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.



1     **Sec. 1.2.** NRS 439.595 is hereby amended to read as follows:  
2     439.595 Providing information to , *transmitting, accessing,*  
3     *utilizing or disclosing* an electronic health record or participating in  
4     a health information exchange in accordance with NRS 439.581 to  
5     439.595, inclusive, does not constitute an unfair trade practice  
6     pursuant to chapter 598A or 686A of NRS.

7     **Sec. 1.3.** Chapter 449 of NRS is hereby amended by adding  
8     thereto a new section to read as follows:

9     *Except as otherwise provided in NRS 439.538 and 439.591, a*  
10    *medical facility shall maintain, transmit and exchange health*  
11    *records electronically in accordance with paragraph (a) of*  
12    *subsection 1 of NRS 629.051.*

13    **Sec. 1.4.** NRS 449.029 is hereby amended to read as follows:  
14    449.029 As used in NRS 449.029 to 449.240, inclusive, *and*  
15    *section 1.3 of this act*, unless the context otherwise requires,  
16    “medical facility” has the meaning ascribed to it in NRS 449.0151  
17    and includes a program of hospice care described in NRS 449.196.

18    **Sec. 1.5.** NRS 449.0301 is hereby amended to read as follows:  
19    449.0301 The provisions of NRS 449.029 to 449.2428,  
20    inclusive, *and section 1.3 of this act* do not apply to:

21    1. Any facility conducted by and for the adherents of any  
22    church or religious denomination for the purpose of providing  
23    facilities for the care and treatment of the sick who depend solely  
24    upon spiritual means through prayer for healing in the practice of  
25    the religion of the church or denomination, except that such a  
26    facility shall comply with all regulations relative to sanitation and  
27    safety applicable to other facilities of a similar category.

28    2. Foster homes as defined in NRS 424.014.

29    3. Any medical facility, facility for the dependent or facility  
30    which is otherwise required by the regulations adopted by the Board  
31    pursuant to NRS 449.0303 to be licensed that is operated and  
32    maintained by the United States Government or an agency thereof.

33    **Sec. 1.6.** NRS 449.089 is hereby amended to read as follows:

34    449.089 1. Each license issued pursuant to NRS 449.029 to  
35    449.2428, inclusive, *and section 1.3 of this act* expires on  
36    December 31 following its issuance and is renewable for 1 year  
37    upon reapplication and payment of all fees required pursuant to  
38    subsection 4 and NRS 449.050, as applicable, unless the Division  
39    finds, after an investigation, that the facility has not:

40    (a) Satisfactorily complied with the provisions of NRS 449.029  
41    to 449.2428, inclusive, *and section 1.3 of this act* or the standards  
42    and regulations adopted by the Board;

43    (b) Obtained the approval of the Director of the Department of  
44    Health and Human Services before undertaking a project, if such  
45    approval is required by NRS 439A.100; or



(c) Conformed to all applicable local zoning regulations.

2. Each reapplication for an agency to provide personal care services in the home, an agency to provide nursing in the home, a community health worker pool, a facility for intermediate care, a facility for skilled nursing, a provider of community-based living arrangement services, a hospital described in 42 U.S.C. § 1395ww(d)(1)(B)(iv), a psychiatric hospital that provides inpatient services to children, a psychiatric residential treatment facility, a residential facility for groups, a program of hospice care, a home for individual residential care, a facility for the care of adults during the day, a facility for hospice care, a nursing pool, the distinct part of a hospital which meets the requirements of a skilled nursing facility or nursing facility pursuant to 42 C.F.R. § 483.5, a hospital that provides swing-bed services as described in 42 C.F.R. § 482.58 or, if residential services are provided to children, a medical facility or facility for the treatment of alcohol or other substance use disorders must include, without limitation, a statement that the facility, hospital, agency, program, pool or home is in compliance with the provisions of NRS 449.115 to 449.125, inclusive, and 449.174.

3. Each reapplication for an agency to provide personal care services in the home, a community health worker pool, a facility for intermediate care, a facility for skilled nursing, a facility for the care of adults during the day, a residential facility for groups or a home for individual residential care must include, without limitation, a statement that the holder of the license to operate, and the administrator or other person in charge and employees of, the facility, agency, pool or home are in compliance with the provisions of NRS 449.093.

4. Each reapplication for a surgical center for ambulatory patients, facility for the treatment of irreversible renal disease, facility for hospice care, program of hospice care, hospital, facility for intermediate care, facility for skilled nursing, agency to provide personal care services in the home or rural clinic must be accompanied by the fee prescribed by the State Board of Health pursuant to NRS 457.240, in addition to the fees imposed pursuant to NRS 449.050.

**Sec. 1.7.** NRS 449.160 is hereby amended to read as follows:

449.160 1. The Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.029 to 449.2428, inclusive, *and section 1.3 of this act* upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.029 to 449.245, inclusive, *and section 1.3 of this act* or of any other law of this State or of the standards, rules and regulations adopted thereunder.



(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to NRS 449.001 to 449.430, inclusive, *and section 1.3 of this act* and 449.435 to 449.531, inclusive, and chapter 449A of NRS if such approval is required.

(f) Failure to comply with the provisions of NRS 441A.315 and any regulations adopted pursuant thereto or NRS 449.2486.

(g) Violation of the provisions of NRS 458.112.

2. In addition to the provisions of subsection 1, the Division may revoke a license to operate a facility for the dependent if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Division shall maintain a log of any complaints that it receives relating to activities for which the Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The Division shall provide to a facility for the care of adults during the day:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Division either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.  
➤ The facility shall make the information available to the public pursuant to NRS 449.2486.

4. On or before February 1 of each odd-numbered year, the Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Division pursuant to subsection 3; and



(b) Any disciplinary actions taken by the Division pursuant to subsection 2.

**Sec. 1.75.** NRS 449.163 is hereby amended to read as follows:

449.163 1. In addition to the payment of the amount required by NRS 449.0308, if a medical facility, facility for the dependent or facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.029 to 449.2428, inclusive, *and section 1.3 of this act* or any condition, standard or regulation adopted by the Board, the Division, in accordance with the regulations adopted pursuant to NRS 449.165, may:

(a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;

(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;

(c) If the license of the facility limits the occupancy of the facility and the facility has exceeded the approved occupancy, require the facility, at its own expense, to move patients to another facility that is licensed;

(d) Impose an administrative penalty of not more than \$5,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and

(e) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (d) of subsection 1, the Division may:

(a) Suspend the license of the facility until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

3. The Division may require any facility that violates any provision of NRS 439B.410 or 449.029 to 449.2428, inclusive, *and section 1.3 of this act* or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

4. Any money collected as administrative penalties pursuant to paragraph (d) of subsection 1 must be accounted for separately and





used to administer and carry out the provisions of NRS 449.001 to 449.430, inclusive, *and section 1.3 of this act*, 449.435 to 449.531, inclusive, and chapter 449A of NRS to protect the health, safety, well-being and property of the patients and residents of facilities in accordance with applicable state and federal standards or for any other purpose authorized by the Legislature.

**Sec. 1.8.** NRS 449.220 is hereby amended to read as follows:

449.220 1. The Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.029 to 449.2428, inclusive ~~[ ]~~, *and section 1.3 of this act*:

(a) Without first obtaining a license therefor; or

(b) After his or her license has been revoked or suspended by the Division.

2. It is sufficient in such action to allege that the defendant did, on a certain date and in a certain place, operate and maintain such a facility without a license.

**Sec. 1.9.** NRS 449.240 is hereby amended to read as follows:

449.240 The district attorney of the county in which the facility is located shall, upon application by the Division, institute and conduct the prosecution of any action for violation of any provisions of NRS 449.029 to 449.245, inclusive ~~[ ]~~, *and section 1.3 of this act*.

**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 439.538 and 439.591, health care records ~~[may]~~:*

*(a) Must be maintained, transmitted and exchanged electronically in a manner that:*

*(1) Allows patients to electronically access their health records directly from the custodian of health care records and forward such records electronically to other persons and entities;*





(2) *Allows for the interoperability of health records with the electronic health records and systems of health care facilities and other providers of health care; and*

(3) *Complies with the applicable provisions of NRS 439.581 to 439.595, inclusive, and any regulations adopted pursuant thereto.*

(b) May be created, authenticated and stored in a ~~computer system~~ health information exchange 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 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, *except for the provisions of paragraph (a) of subsection 1*, 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. 2.5.** 1. There is hereby appropriated from the State General Fund to the Department of Health and Human Services the sum of \$3,000,000 for the purpose of awarding grants to providers of health care and medical facilities for the purposes of complying with the requirements of section 1.3 of this act and paragraph (a) of subsection 1 of NRS 629.051, as amended by section 2 of this act. To receive such a grant, a provider of health care or medical facility must have a staff of less than 50 persons or work for an entity that has a staff of less than 50 persons, as applicable.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2025, 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 19, 2025, 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 19, 2025.

3. As used in this section:

(a) “Medical facility” has the meaning ascribed to it in NRS 449.0151.

(b) “Provider of health care” has the meaning ascribed to it in NRS 629.031.

**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, 1.1, 1.2 and 2.5 of this act become effective on July 1, 2023.

2. Sections 1.3 to 2, inclusive, and 3 of this act become effective on January 1, 2028.

