

Amendment No. 100

Senate Amendment to Senate Bill No. 283	(BDR 54-555)
Proposed by: Senate Committee on Commerce and Labor	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will MAINTAIN the unfunded mandate not requested by the affected local government to S.B. 283 (§§ 1, 3).

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.

MPP/EWR



Date: 4/13/2023

S.B. No. 283—Revises certain provisions relating to health care records.
(BDR 54-555)



SENATE BILL NO. 283—SENATORS PAZINA, DONATE; DALY, DONDERO LOOP, FLORES,
D. HARRIS, LANGE, NEAL, NGUYEN, OHRENSCHALL AND SCHEIBLE

MARCH 15, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Revises certain provisions relating to health care records.
(BDR 54-555)

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

CONTAINS UNFUNDED MANDATE (§§ 1, 3)
(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; requiring certain persons and entities to furnish health care records electronically under certain circumstances; prohibiting such persons and entities from charging a fee that exceeds a certain amount to furnish health care records electronically if the health care records are maintained electronically; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires each custodian of health care records ~~and each person who owns or operates an ambulance in this State~~ to make health care records available for inspection by a patient, certain representatives of a patient and certain government officials. (NRS 629.061) Upon request of such a person, **section 1** of this bill requires a custodian of health care records ~~for person who owns or operates an ambulance in this State~~ to electronically transmit the health care records to the person or, if the patient has provided written authorization for records to be furnished to another person or entity, to that person or entity.

Existing law authorizes a custodian of health care records ~~and a person who owns or operates an ambulance in this State~~ to charge certain fees for furnishing a copy of health care records. (NRS 629.061) **Section 1** prohibits a custodian of health care records ~~and a person who owns or operates an ambulance in this State~~ from charging a fee that exceeds \$15 or other amounts prescribed by existing law for furnishing a copy of health care records electronically if the custodian of health care records ~~for person who owns or operates an ambulance in this State~~ maintains such health care records electronically. **Section 2** of this bill makes a conforming change to indicate the proper placement of **section 1** in the Nevada Revised Statutes.

Existing law provides for the payment of compensation to employees who are injured or disabled as a result of an occupational injury or disease. (Chapters 616A-616D and 617 of NRS) Existing law entitles any injured employee or a person who has been authorized by the injured employee to information from the records of an insurer or employer to the extent necessary for the proper presentation of such a claim. (NRS 616B.012) Existing regulations: (1) prescribe a process for an injured employee or person who has been authorized by the injured employee to request such information from the records of an insurer or employer; and

24 (2) prohibit an insurer or employer from charging a fee that is more than 30 cents per page
 25 when providing the requested information. (NAC 616B.008)

26 Upon receiving such a request for health care records that asks for the records to be
 27 furnished electronically, **section 3** of this bill requires an insurer, **third-party administrator**
 28 or employer to electronically transmit any health care records using a method of secure
 29 electronic transmission. **Section 3** prohibits an insurer, **third-party administrator** or
 30 employer from charging a fee **that exceeds \$15** for furnishing a copy of the health care
 31 records electronically if the insurer, **third-party administrator** or employer maintains such
 32 health care records electronically. **Section 4** of this bill makes a conforming change to clarify
 33 that **section 3** provides an exception to the general requirement that information obtained from
 34 an insurer or employer remain confidential.

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

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

3 *1. If a person who is authorized to request a copy of health care records of a*
 4 *patient pursuant to NRS 629.061 requests that a copy of such records be*
 5 *furnished electronically, the custodian of health care records ~~for a person who~~*
 6 *~~owns or operates an ambulance in this State~~ must electronically transmit a copy*
 7 *of the requested records to the person or, if the patient has provided written*
 8 *authorization for records to be furnished to another person or entity, to that*
 9 *person or entity. Such records must be furnished in an electronic format using a*
 10 *method of secure electronic transmission that complies with applicable federal*
 11 *and state law.*

12 *2. If a custodian of health care records ~~for a person who owns or operates~~*
 13 *~~an ambulance in this State~~ maintains health care records electronically, ~~the~~*
 14 *~~custodian or person shall not charge a~~ any fee to furnish those records*
 15 *electronically pursuant to subsection 1 ~~[-]~~ must not exceed \$15 or the amount per*
 16 *page prescribed by NRS 629.061, whichever is less.*

17 *3. As used in this section, "secure electronic transmission" means the*
 18 *sending of information from one computer system to another computer system in*
 19 *such a manner as to ensure that:*

20 *(a) No person other than the intended recipient receives the information;*

21 *(b) The identity and signature of the sender of the information can be*
 22 *authenticated; and*

23 *(c) The information which is received by the intended recipient is identical to*
 24 *the information that was sent.*

25 **Sec. 2.** NRS 641.2291 is hereby amended to read as follows:

26 641.2291 1. A program of education for mental health professionals
 27 approved by the Board, a mental health professional or a person receiving training
 28 for mental health professionals is not required to retain a recording of the provision
 29 of mental health services by a psychologist to a patient that meets the requirements
 30 of subsection 2 if:

31 (a) The recording is used for a training activity that is part of a program of
 32 education for mental health professionals approved by the Board;

33 (b) The patient has provided informed consent in writing on a form that meets
 34 the requirements prescribed by the Board pursuant to subsection 3 to the use of the
 35 recording in the training activity;

36 (c) Destroying the recording does not result in noncompliance with the
 37 obligations described in subsection 4; and

1 (d) The recording is destroyed after the expiration of the period of time
2 prescribed by the Board pursuant to paragraph (b) of subsection 3.

3 2. A recording of the provision of mental health services by a psychologist to
4 a patient used for the purpose described in paragraph (a) of subsection 1:

5 (a) Must meet all requirements of the Health Insurance Portability and
6 Accountability Act of 1996, Public Law 104-191, and any regulations adopted
7 pursuant thereto, that are designed to prevent the reproduction, copying or theft of
8 the recording; and

9 (b) Must not contain any personally identifiable information relating to the
10 patient unless the patient has provided informed consent in writing specifically
11 authorizing the inclusion of that information in the recording.

12 3. The Board shall adopt regulations:

13 (a) Prescribing requirements governing the provision of informed written
14 consent pursuant to paragraph (b) of subsection 1, including, without limitation,
15 requirements governing:

16 (1) The form on which such informed written consent must be provided;
17 and

18 (2) The length of time that a psychologist who obtains such informed
19 written consent must maintain the informed written consent;

20 (b) Prescribing the length of time that a program of education for mental health
21 professionals, a mental health professional or a person receiving training for mental
22 health professionals that uses a recording of the provision of mental health services
23 by a psychologist to a patient for the purposes described in paragraph (a) of
24 subsection 1 may retain the recording before destroying it; and

25 (c) Defining “training activity” for the purposes of this section.

26 4. The provisions of this section do not abrogate, alter or otherwise affect the
27 obligation of a psychologist to comply with the applicable requirements of chapter
28 629 of NRS, including, without limitation, the requirement to retain records
29 concerning the mental health services that he or she provides to patients in
30 accordance with NRS 629.051 to 629.069, inclusive **H**, *and section 1 of this act.*

31 5. Except where necessary for compliance with subsection 4, a recording of
32 the provision of mental health services by a psychologist to a patient that is used for
33 a training activity by a program of education for mental health professionals, a
34 mental health professional or a person receiving training for mental health
35 professionals in accordance with the provisions of this section is not a health care
36 record for the purposes of chapter 629 of NRS.

37 6. As used in this section, “mental health professional” means a psychologist,
38 a marriage and family therapist, a clinical professional counselor, a social worker,
39 a master social worker, an independent social worker, a clinical social worker, a
40 clinical alcohol and drug counselor, an alcohol and drug counselor or problem
41 gambling counselor.

42 **Sec. 3.** Chapter 616B of NRS is hereby amended by adding thereto a new
43 section to read as follows:

44 *1. If an injured employee or his or her legal representative requests health*
45 *care records electronically from an insurer, third-party administrator or*
46 *employer pursuant to subsection 1 of NRS 616B.012, any other provision of*
47 *chapters 616A to 616D, inclusive, or chapter 617 of NRS or any regulation*
48 *adopted pursuant thereto, the insurer, third-party administrator or employer*
49 *shall electronically transmit a copy of the requested records to the injured*
50 *employee or legal representative. Such records must be furnished in an electronic*
51 *format using a method of secure electronic transmission that complies with*
52 *applicable federal and state law.*

1 2. *If an insurer, third-party administrator or employer maintains health*
2 *care records electronically, ~~the insurer or employer shall not charge a~~ any fee to*
3 *furnish those records electronically pursuant to subsection 1 ~~it~~ must not exceed*
4 *\$15.*

5 3. *As used in this section:*

6 (a) *“Health care records” has the meaning ascribed to it in NRS 629.021.*

7 (b) *“Secure electronic transmission” has the meaning ascribed to it in*
8 *section 1 of this act.*

9 **Sec. 4.** NRS 616B.012 is hereby amended to read as follows:

10 616B.012 1. Except as otherwise provided in this section and NRS
11 239.0115, 607.217, 616B.015, 616B.021 and 616C.205, *and section 3 of this act,*
12 information obtained from any insurer, employer or employee is confidential and
13 may not be disclosed or be open to public inspection in any manner which would
14 reveal the person’s identity.

15 2. Any claimant or legal representative of the claimant is entitled to
16 information from the records of the insurer, to the extent necessary for the proper
17 presentation of a claim in any proceeding under chapters 616A to 616D, inclusive,
18 or chapter 617 of NRS.

19 3. The Division and Administrator are entitled to information from the
20 records of the insurer which is necessary for the performance of their duties. The
21 Administrator may, by regulation, prescribe the manner in which otherwise
22 confidential information may be made available to:

23 (a) Any agency of this or any other state charged with the administration or
24 enforcement of laws relating to industrial insurance, unemployment compensation,
25 public assistance or labor law and industrial relations;

26 (b) Any state or local agency for the enforcement of child support;

27 (c) The Internal Revenue Service of the Department of the Treasury;

28 (d) The Department of Taxation; and

29 (e) The State Contractors’ Board in the performance of its duties to enforce the
30 provisions of chapter 624 of NRS.

31 Information obtained in connection with the administration of a program of
32 industrial insurance may be made available to persons or agencies for purposes
33 appropriate to the operation of a program of industrial insurance.

34 4. Upon written request made by a public officer of a local government, an
35 insurer shall furnish from its records the name, address and place of employment of
36 any person listed in its records. The request must set forth the social security
37 number of the person about whom the request is made and contain a statement
38 signed by proper authority of the local government certifying that the request is
39 made to allow the proper authority to enforce a law to recover a debt or obligation
40 owed to the local government. Except as otherwise provided in NRS 239.0115, the
41 information obtained by the local government is confidential and may not be used
42 or disclosed for any purpose other than the collection of a debt or obligation owed
43 to the local government. The insurer may charge a reasonable fee for the cost of
44 providing the requested information.

45 5. To further a current criminal investigation, the chief executive officer of
46 any law enforcement agency of this State may submit to the Administrator a written
47 request for the name, address and place of employment of any person listed in the
48 records of an insurer. The request must set forth the social security number of the
49 person about whom the request is made and contain a statement signed by the chief
50 executive officer certifying that the request is made to further a criminal
51 investigation currently being conducted by the agency. Upon receipt of a request,
52 the Administrator shall instruct the insurer to furnish the information requested.
53 Upon receipt of such an instruction, the insurer shall furnish the information

1 requested. The insurer may charge a reasonable fee to cover any related
2 administrative expenses.

3 6. Upon request by the Department of Taxation, the Administrator shall
4 provide:

5 (a) Lists containing the names and addresses of employers; and

6 (b) Other information concerning employers collected and maintained by the
7 Administrator or the Division to carry out the purposes of chapters 616A to 616D,
8 inclusive, or chapter 617 of NRS,

9 to the Department for its use in verifying returns for the taxes imposed pursuant
10 to chapters 363A, 363B, 363C and 363D of NRS. The Administrator may charge a
11 reasonable fee to cover any related administrative expenses.

12 7. Any person who, in violation of this section, discloses information
13 obtained from files of claimants or policyholders or obtains a list of claimants or
14 policyholders under chapters 616A to 616D, inclusive, or chapter 617 of NRS and
15 uses or permits the use of the list for any political purposes, is guilty of a gross
16 misdemeanor.

17 8. All letters, reports or communications of any kind, oral or written, from the
18 insurer, or any of its agents, representatives or employees are privileged and must
19 not be the subject matter or basis for any lawsuit if the letter, report or
20 communication is written, sent, delivered or prepared pursuant to the requirements
21 of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

22 9. The provisions of this section do not prohibit the Administrator or the
23 Division from:

24 (a) Disclosing any nonproprietary information relating to an uninsured
25 employer or proof of industrial insurance; or

26 (b) Notifying an injured employee or the surviving spouse or dependent of an
27 injured employee of benefits to which such persons may be entitled in addition to
28 those provided pursuant to the provisions of chapters 616A to 616D, inclusive, or
29 chapter 617 of NRS but only if:

30 (1) The notification is solely for the purpose of informing the recipient of
31 benefits that are available to the recipient; and

32 (2) The content of the notification is limited to information concerning
33 services which are offered by nonprofit entities.

34 **Sec. 5.** The provisions of NRS 354.599 do not apply to any additional
35 expenses of a local government that are related to the provisions of this act.