

**Amendment No. 681**

Assembly Amendment to Senate Bill No. 283 First Reprint (BDR 54-555)

**Proposed by:** Assembly 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 R1 (§ 1).

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: 5/24/2023

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, 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~~ **a custodian of health care records** to furnish health care records electronically under certain circumstances; prohibiting ~~such persons and entities~~ **a custodian of health care records** from charging a fee that exceeds a certain amount to furnish health care records electronically if the health care records are maintained electronically; **authorizing a person to disclose the genetic information of another person in accordance with certain federal law; requiring an insurer, third-party administrator or employer to furnish health care records in certain circumstances; prescribing the maximum amount of any fee charged to furnish health care records in those circumstances;** and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires each custodian of health care records 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 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 to charge certain fees for furnishing a copy of health care records. (NRS 629.061) **Section 1: (1) generally** prohibits a custodian of health care records from charging a fee that exceeds ~~§15~~ **\$40** or other amounts prescribed by existing law for furnishing a copy of health care records electronically if the custodian of health care records maintains such health care records electronically ~~1-1~~ **; and (2) authorizes a custodian of health care records, other than the health care records of a state or local governmental entity, to charge certain additional fees in certain circumstances.** **Section 2** of this bill makes a conforming change to indicate the proper placement of **section 1** in the Nevada Revised Statutes.

Existing law prohibits a person from disclosing or compelling a person to disclose the identity of a person who was the subject of a genetic test or any genetic information of another person, with certain exceptions, without first obtaining the informed consent of that person or his or her legal guardian. (NRS 629.171) Section 1.5 of this bill adds an exception to this prohibition to authorize a person to disclose such information as permitted by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

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

Upon receiving such a request for health care records, ~~[that asks for the records to be furnished electronically.]~~ section 3 of this bill requires an insurer, third-party administrator or employer to ~~[electronically transmit]~~ furnish any health care records to the injured employee or his or her legal representative. Section 3 authorizes an insurer, third-party administrator or employer to electronically transmit such health care records using a method of secure electronic transmission. ~~Section 3 [prohibits an insurer, third-party administrator or employer from charging a fee that exceeds \$15 for furnishing a copy of the health care records electronically if the insurer, third-party administrator or employer maintains such health care records electronically.]~~ prescribes the maximum amounts of fees for furnishing health care records in response to such a request, which depend on whether the records are furnished by electronic mail, through a secure electronic method of file sharing or in a nonelectronic format. Section 4 of this bill makes a conforming change to clarify that section 3 provides an exception to the general requirement that information obtained from an insurer or employer remain confidential.

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

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

*1. If a person who is authorized to request a copy of health care records of a patient pursuant to NRS 629.061 requests that a copy of such records be furnished electronically, the custodian of health care records must electronically transmit a copy of the requested 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. Such records must be furnished in an electronic format using a method of secure electronic transmission that complies with applicable federal and state law.*

*2. ~~For~~ Except as otherwise provided in subsections 3 and 4, if a custodian of health care records maintains health care records electronically, any fee to furnish those records electronically pursuant to subsection 1 must not exceed ~~[\$15]~~ \$40 or the amount per page prescribed by NRS 629.061, whichever is less.*

*3. If the total amount of the fee chargeable pursuant to subsection 2 for the furnishing of health care records electronically is less than \$5, a custodian of health care records, other than a custodian of the health care records of a state or local governmental entity, may charge a fee of \$5 for the furnishing of those health care records.*

1 4. A custodian of health care records, other than a custodian of the health  
 2 care records of a state or local governmental entity, may charge the following  
 3 fees to furnish health care records electronically, in addition to the total amount  
 4 of the fee charged pursuant to subsection 2 or 3:

5 (a) A fee of \$5 for written confirmation that no health care records were  
 6 found.

7 (b) A fee of \$5 for furnishing a copy of a certificate of the custodian of  
 8 health care records.

9 (c) A fee of \$20 for a copy of a printed film sheet.

10 (d) A fee of \$25 for furnishing a copy of radiologic images in any form other  
 11 than a printed film sheet.

12 ~~3.7~~ 5. As used in this section ~~f~~, “secure”:

13 (a) “Custodian of health care records” has the meaning ascribed to it in NRS  
 14 629.016 and additionally includes a covered entity or business associate, as those  
 15 terms are defined in 45 C.F.R. § 160.103.

16 (b) “Health care records” has the meaning ascribed to it in NRS 629.021 and  
 17 additionally includes individually identifiable health information, as defined in  
 18 45 C.F.R. § 160.103.

19 (c) “Secure electronic transmission” means the sending of information from  
 20 one computer system to another computer system in such a manner as to ensure  
 21 that:

22 ~~(a)~~ (1) No person other than the intended recipient receives the  
 23 information;

24 ~~(b)~~ (2) The identity and signature of the sender of the information can be  
 25 authenticated; and

26 ~~(c)~~ (3) The information which is received by the intended recipient is  
 27 identical to the information that was sent.

28 **Sec. 1.5. NRS 629.171 is hereby amended to read as follows:**

29 629.171 It is unlawful to disclose or to compel a person to disclose the  
 30 identity of a person who was the subject of a genetic test or to disclose genetic  
 31 information of that person in a manner that allows identification of the person,  
 32 without first obtaining the informed consent of that person or his or her legal  
 33 guardian pursuant to NRS 629.181, unless the information is disclosed:

34 1. To conduct a criminal investigation, an investigation concerning the death  
 35 of a person or a criminal or juvenile proceeding;

36 2. To determine the parentage or identity of a person pursuant to NRS 56.020;

37 3. To determine the paternity of a person pursuant to NRS 126.121 or  
 38 425.384;

39 4. Pursuant to an order of a court of competent jurisdiction;

40 5. By a physician and is the genetic information of a deceased person that will  
 41 assist in the medical diagnosis of persons related to the deceased person by blood;

42 6. To a federal, state, county or city law enforcement agency to establish the  
 43 identity of a person or dead human body;

44 7. To determine the presence of certain preventable or inheritable disorders in  
 45 an infant pursuant to NRS 442.008 or a provision of federal law;

46 8. To carry out the provisions of NRS 442.300 to 442.330, inclusive; ~~or~~

47 9. By an agency of criminal justice pursuant to NRS 179A.075 ~~or~~; or

48 10. As permitted by the Health Insurance Portability and Accountability Act  
 49 of 1996, Public Law 104-191, and the regulations adopted pursuant thereto.

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

51 641.2291 1. A program of education for mental health professionals  
 52 approved by the Board, a mental health professional or a person receiving training  
 53 for mental health professionals is not required to retain a recording of the provision

1 of mental health services by a psychologist to a patient that meets the requirements  
2 of subsection 2 if:

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

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

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

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

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

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

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

21 3. The Board shall adopt regulations:

22 (a) Prescribing requirements governing the provision of informed written  
23 consent pursuant to paragraph (b) of subsection 1, including, without limitation,  
24 requirements governing:

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

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

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

34 (c) Defining "training activity" for the purposes of this section.

35 4. The provisions of this section do not abrogate, alter or otherwise affect the  
36 obligation of a psychologist to comply with the applicable requirements of chapter  
37 629 of NRS, including, without limitation, the requirement to retain records  
38 concerning the mental health services that he or she provides to patients in  
39 accordance with NRS 629.051 to 629.069, inclusive ~~+~~, **and section 1 of this act.**

40 5. Except where necessary for compliance with subsection 4, a recording of  
41 the provision of mental health services by a psychologist to a patient that is used for  
42 a training activity by a program of education for mental health professionals, a  
43 mental health professional or a person receiving training for mental health  
44 professionals in accordance with the provisions of this section is not a health care  
45 record for the purposes of chapter 629 of NRS.

46 6. As used in this section, "mental health professional" means a psychologist,  
47 a marriage and family therapist, a clinical professional counselor, a social worker, a  
48 master social worker, an independent social worker, a clinical social worker, a  
49 clinical alcohol and drug counselor, an alcohol and drug counselor or problem  
50 gambling counselor.

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

3           1. *If an injured employee or his or her legal representative requests health*  
4 *care records ~~electronically~~ from an insurer, third-party administrator or*  
5 *employer pursuant to subsection ~~1~~ 2 of NRS 616B.012, any other provision of*  
6 *chapters 616A to 616D, inclusive, or chapter 617 of NRS or any regulation*  
7 *adopted pursuant thereto, the insurer, third-party administrator or employer shall*  
8 *~~electronically transmit~~ furnish a copy of the requested records to the injured*  
9 *employee or legal representative. Such records ~~must~~ may be furnished in an*  
10 *electronic format using a method of secure electronic transmission that complies*  
11 *with applicable federal and state law.*

12           2. *If an insurer, third-party administrator or employer maintains health*  
13 *care records electronically, any fee to furnish those records ~~electronically~~ in an*  
14 *electronic format pursuant to subsection 1 must not exceed ~~\$15~~ .:*

15           (a) Fifteen dollars for records able to be delivered by electronic mail; or

16           (b) Twenty-five dollars for records required to be delivered using a secure  
17 electronic method of file sharing.

18           3. Any fee to furnish health care records in a form that is not electronic  
19 pursuant to subsection 1 must not exceed 30 cents per page.

20           4. As used in this section:

21           (a) "Health care records" has the meaning ascribed to it in NRS 629.021 ~~and~~  
22 and additionally includes individually identifiable health information, as defined  
23 in 45 C.F.R. § 160.103.

24           (b) "Secure electronic transmission" has the meaning ascribed to it in  
25 section 1 of this act.

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

27           616B.012 1. Except as otherwise provided in this section and NRS  
28 239.0115, 607.217, 616B.015, 616B.021 and 616C.205, *and section 3 of this act*,  
29 information obtained from any insurer, employer or employee is confidential and  
30 may not be disclosed or be open to public inspection in any manner which would  
31 reveal the person's identity.

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

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

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

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

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

45           (d) The Department of Taxation; and

46           (e) The State Contractors' Board in the performance of its duties to enforce the  
47 provisions of chapter 624 of NRS.

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

51           4. Upon written request made by a public officer of a local government, an  
52 insurer shall furnish from its records the name, address and place of employment of  
53 any person listed in its records. The request must set forth the social security

1 number of the person about whom the request is made and contain a statement  
2 signed by proper authority of the local government certifying that the request is  
3 made to allow the proper authority to enforce a law to recover a debt or obligation  
4 owed to the local government. Except as otherwise provided in NRS 239.0115, the  
5 information obtained by the local government is confidential and may not be used  
6 or disclosed for any purpose other than the collection of a debt or obligation owed  
7 to the local government. The insurer may charge a reasonable fee for the cost of  
8 providing the requested information.

9 5. To further a current criminal investigation, the chief executive officer of  
10 any law enforcement agency of this State may submit to the Administrator a written  
11 request for the name, address and place of employment of any person listed in the  
12 records of an insurer. The request must set forth the social security number of the  
13 person about whom the request is made and contain a statement signed by the chief  
14 executive officer certifying that the request is made to further a criminal  
15 investigation currently being conducted by the agency. Upon receipt of a request,  
16 the Administrator shall instruct the insurer to furnish the information requested.  
17 Upon receipt of such an instruction, the insurer shall furnish the information  
18 requested. The insurer may charge a reasonable fee to cover any related  
19 administrative expenses.

20 6. Upon request by the Department of Taxation, the Administrator shall  
21 provide:

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

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

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

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

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

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

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

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

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

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

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