

Assembly Bill No. 7—Committee on
Health and Human Services

CHAPTER.....

AN ACT relating to health care; requiring the adoption of a framework for the electronic transmittal, maintenance and exchange of certain health information; requiring governmental entities, health care facilities and providers, insurers and insurance administrators to maintain, transmit and exchange health information electronically; authorizing the imposition of certain discipline against a health care provider, insurer or insurance administrator that fails to comply with that requirement; authorizing the Director of the Department of Health and Human Services to contract with multiple health information exchanges to perform certain functions; expanding immunity from certain liability for health care providers who use a health information exchange; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Health and Human Services to adopt regulations governing health information exchanges and the transmittal, ownership, management, use and confidentiality of electronic health records. (NRS 439.587, 439.589) **Section 1.08** of this bill requires the Director to prescribe by regulation a framework for the electronic maintenance, transmittal and exchange of electronic health records, prescriptions and health-related information. **Section 1.08** requires that framework to establish standards for networks and technologies to be used to maintain, transmit and exchange health information, including standards that require: (1) the ability for patients to access and forward their records; and (2) the interoperability of such networks and technologies. **Section 2.7** of this bill requires the Director to convene an advisory group to advise the Director in the adoption of those standards.

With certain exceptions, **sections 1.08, 1.94, 1.96, 2 and 2.8** of this bill require governmental entities, health care providers, insurers, pharmacy benefit managers and other insurance administrators to maintain, transmit and exchange health information electronically in accordance with those standards and other provisions governing electronic health records, beginning on: (1) July 1, 2024, for hospitals and large physician group practices; (2) July 1, 2025, for governmental entities, other large health care practices, insurers, pharmacy benefit managers and other insurance administrators; and (3) January 1, 2030, for small physician group practices and other small health care practices. **Sections 1.02 and 1.08** of this bill provide that a health care provider, insurer, pharmacy benefit manager or other insurance administrator that fails to comply with that requirement is not guilty of a misdemeanor. Instead, **section 1** of this bill requires the Department to notify any regulatory body that has issued a license, certificate, registration, permit or similar credential to a health care provider, insurer, pharmacy benefit manager or other insurance administrator if the holder of the credential fails to comply with that requirement. After receiving such notice, **sections 1.3, 1.92, 2, 2.2 and 2.35** of this bill authorize a regulatory body to impose corrective action or an administrative



penalty on the health care provider, insurer, pharmacy benefit manager or other insurance administrator. **Section 1** of this bill requires the Department to notify the relevant regulatory body if a health care provider, insurer, pharmacy benefit manager or other insurance administrator that was previously out of compliance with the requirement to maintain, transmit and exchange health information electronically comes into compliance with that requirement. **Section 1.06** of this bill removes duplicative requirements concerning the adoption of regulations governing electronic health records. **Sections 1.02-1.07, 1.4-1.9, 1.98, 2.05, 2.15, 2.25, 2.3, 2.4 and 2.45** of this bill make conforming changes to indicate the proper placement of **sections 1, 1.3, 2.1 and 2.2** in the Nevada Revised Statutes.

Existing law authorizes the Director of the Department of Health and Human Services to contract with not more than one health information exchange to be responsible for compiling statewide master indexes of patients, health care providers and payers. (NRS 439.587) **Section 1.06** of this bill authorizes the Director to contract with multiple health information exchanges to perform those functions. **Section 1.06** also removes a requirement that the Director encourage the use of health information exchanges.

Existing law requires that, with certain exceptions, a patient consent before his or her electronic health record is retrieved from a health information exchange. (NRS 439.591) **Section 1.09** of this bill clarifies that such consent must be affirmative.

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.

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 **section 1.08**.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall notify each regulatory body of this State that has issued a current, valid license to a licensed provider or insurer if:



(a) *The Department determines that the licensed provider or insurer is not in compliance with the requirements of subsection 4 of NRS 439.589; and*

(b) *The licensed provider or insurer:*

(1) *Is not exempt from those requirements pursuant to subsection 5 of NRS 439.589; and*

(2) *Has not received a waiver of those requirements pursuant to subsection 6 of NRS 439.589.*

2. *If the Department determines that a licensed provider or insurer for which notice was previously provided pursuant to subsection 1 has come into compliance with the requirements of subsection 4 of NRS 439.589, the Department shall immediately notify the regulatory body that issued the license.*

3. *As used in this section:*

(a) *“License” means any license, certificate, registration, permit or similar type of authorization to practice an occupation or profession or engage in a business in this State issued to a licensed provider or insurer.*

(b) *“Licensed provider or insurer” means:*

(1) *A medical facility licensed pursuant to chapter 449 of NRS;*

(2) *The holder of a permit to operate an ambulance, an air ambulance or a vehicle of a fire-fighting agency pursuant to chapter 450B of NRS;*

(3) *A provider of health care, as defined in NRS 629.031, who is licensed pursuant to title 54 of NRS; or*

(4) *Any person licensed pursuant to title 57 of NRS.*

(c) *“Regulatory body” means any governmental entity that issues a license.*

Sec. 1.02. NRS 439.580 is hereby amended to read as follows:

439.580 1. Any local health officer or a deputy of a local health officer who neglects or fails to enforce the provisions of this chapter in his or her jurisdiction, or neglects or refuses to perform any of the duties imposed upon him or her by this chapter or by the instructions and directions of the Division shall be punished by a fine of not more than \$250.

2. ~~[Each]~~ *Except as otherwise provided in NRS 439.589, each* person who violates any of the provisions of this chapter or refuses or neglects to obey any lawful order, rule or regulation of the:

(a) State Board of Health or violates any rule or regulation approved by the State Board of Health pursuant to NRS 439.350, 439.366, 439.410 and 439.460; or



(b) Director adopted pursuant to NRS 439.538 or 439.581 to 439.595, inclusive, *and section 1 of this act*,
→ is guilty of a misdemeanor.

Sec. 1.04. NRS 439.581 is hereby amended to read as follows:
439.581 As used in NRS 439.581 to 439.595, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 439.582 to 439.585, inclusive, have the meanings ascribed to them in those sections.

Sec. 1.06. 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 transmittal 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) 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) 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, *and section 1 of this act*.

Sec. 1.07. NRS 439.588 is hereby amended to read as follows:

439.588 1. A health information exchange shall not operate in this State without first obtaining certification as provided in subsection 2.

2. The Director shall by regulation establish the manner in which a health information exchange may apply for certification and the requirements for granting such certification, which must include, without limitation, that the health information exchange demonstrate its financial and operational sustainability, adherence to the privacy, security and patient consent standards adopted pursuant to NRS 439.589 and capacity for interoperability with any other health information exchange certified pursuant to this section.

3. The Director may deny an application for certification or may suspend or revoke any certification issued pursuant to subsection 2 for failure to comply with the provisions of NRS 439.581 to 439.595, inclusive, *and section 1 of this act*, or the regulations adopted pursuant thereto or any applicable federal or state law.

4. When the Director intends to deny, suspend or revoke a certification, he or she shall give reasonable notice to all parties by certified mail. The notice must contain the legal authority, jurisdiction and reasons for the action to be taken. A health information exchange that wishes to contest the action of the Director must file an appeal with the Director.

5. The Director shall adopt regulations establishing the manner in which a person may file a complaint with the Director regarding a violation of the provisions of this section.

6. The Director may impose an administrative fine against a health information exchange which operates in this State without holding a certification in an amount established by the Director by regulation. The Director shall afford a health information exchange so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

7. The Director may adopt such regulations as he or she determines are necessary to carry out the provisions of this section.

Sec. 1.08. NRS 439.589 is hereby amended to read as follows:

439.589 1. The Director *, in consultation with health care providers, third parties and other interested persons and entities,* shall by regulation prescribe *a framework for the electronic maintenance, transmittal and exchange of electronic health records, prescriptions, health-related information and electronic*



signatures and requirements for electronic equivalents of written entries or written approvals in accordance with federal law. The regulations must:

(a) Establish standards ~~[-~~

~~—(a)] for networks and technologies to be used to maintain, transmit and exchange health information, including, without limitation, standards:~~

(1) That require:

(I) The use of networks and technologies that allow patients to access electronic health records directly from the health care provider of the patient and forward such electronic health records electronically to other persons and entities; and

(II) The interoperability of such networks and technologies in accordance with the applicable standards for the interoperability of Qualified Health Information Networks prescribed by the Office of the National Coordinator for Health Information Technology of the United States Department of Health and Human Services;

(2) To ensure that electronic health records retained or shared ~~[by any health information exchange]~~ are secure;

~~[(b)]~~ (3) To maintain the confidentiality of electronic health records and health-related information, including, without limitation, standards to maintain the confidentiality of electronic health records relating to a child who has received health care services without the consent of a parent or guardian and which ensure that a child's right to access such health care services is not impaired;

~~[(e)]~~ (4) To ensure the privacy of individually identifiable health information, including, without limitation, standards to ensure the privacy of information relating to a child who has received health care services without the consent of a parent or guardian;

~~[(d)]~~ (5) For obtaining consent from a patient before retrieving the patient's health records from a health information exchange, including, without limitation, standards for obtaining such consent from a child who has received health care services without the consent of a parent or guardian;

*~~[(e)]~~ (6) For making any necessary corrections to information or records ~~[retained or shared by a health information exchange; and~~
~~—(f)] ;~~*

(7) For notifying a patient if the confidentiality of information contained in an electronic health record of the patient is breached ~~[-]~~;



(8) Governing the ownership, management and use of electronic health records, health-related information and related data; and

(9) For the electronic transmission of prior authorizations for prescription medication;

(b) Ensure compliance with the requirements, specifications and protocols for exchanging, securing and disclosing 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, 42 U.S.C. §§ 300jj et seq. and 17901 et seq., the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and other applicable federal and state law; and

(c) Be based on nationally recognized best practices for maintaining, transmitting and exchanging health information electronically.

2. The standards prescribed pursuant to this section must include, without limitation:

(a) Requirements for the creation, maintenance and transmittal of electronic health records;

(b) Requirements for protecting confidentiality, including control over, access to and the collection, organization and maintenance of electronic health records, health-related information and individually identifiable health information;

(c) Requirements for the manner in which a patient may, through a health care provider who participates in the sharing of health records using a health information exchange, revoke his or her consent for a health care provider to retrieve the patient's health records from the health information exchange;

(d) A secure and traceable electronic audit system for identifying access points and trails to electronic health records and health information exchanges; and

(e) Any other requirements necessary to comply with all applicable federal laws relating to electronic health records, health-related information, health information exchanges and the security and confidentiality of such records and exchanges.

3. The regulations adopted pursuant to this section must not require any person or entity to use a health information exchange.

4. Except as otherwise provided in subsections 5, 6 and 7, the Department and the divisions thereof, other state and local governmental entities, health care providers, third parties, pharmacy benefit managers and other entities licensed or certified pursuant to title 57 of NRS shall maintain, transmit and exchange



health information in accordance with the regulations adopted pursuant to this section, the provisions of NRS 439.581 to 439.595, inclusive, and section 1 of this act, and any other regulations adopted pursuant thereto.

5. The Federal Government and employees thereof, 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, 29 U.S.C. §§ 1001 et seq., or a Taft-Hartley trust formed pursuant to 29 U.S.C. § 186(c)(5) is not required to but may maintain, transmit and exchange electronic information in accordance with the regulations adopted pursuant to this section.

6. A health care provider may apply to the Department for a waiver from the provisions of subsection 4 on the basis that the health care provider does not have the infrastructure necessary to comply with those provisions, including, without limitation, because the health care provider does not have access to the Internet. The Department shall grant a waiver if it determines that:

(a) The health care provider does not currently have the infrastructure necessary to comply with the provisions of subsection 4; and

(b) Obtaining such infrastructure is not reasonably practicable, including, without limitation, because the cost of such infrastructure would make it difficult for the health care provider to continue to operate.

7. The provisions of subsection 4 do not apply to the Department of Corrections.

8. A violation of the provisions of this section or any regulations adopted pursuant thereto is not a misdemeanor.

9. As used in this section:

(a) “Pharmacy benefit manager” has the meaning ascribed to it in NRS 683A.174.

(b) “Third party” means any insurer, governmental entity or other organization providing health coverage or benefits in accordance with state or federal law.

Sec. 1.09. NRS 439.591 is hereby amended to read as follows:

439.591 1. Except as otherwise provided in subsection 2 of NRS 439.538, a patient must not be required to participate in a health information exchange. Before a patient’s health care records may be retrieved from a health information exchange, the patient must be fully informed and *affirmatively* consent, in the manner prescribed by the Director. *It is the public policy of this State that,*



except as otherwise provided in NRS 439.538, a patient's health care records must not be retrieved from a health information exchange unless the patient provides such affirmative consent.

2. A patient must be notified in the manner prescribed by the Director of any breach of the confidentiality of electronic health records of the patient or a health information exchange.

3. A patient who consents to the retrieval of his or her electronic health record from a health information exchange may at any time request that a health care provider access and provide the patient with his or her electronic health record in accordance with the provisions of 45 C.F.R. § 164.526.

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 the 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.

Sec. 1.2. NRS 439.595 is hereby amended to read as follows:

439.595 Providing information to *, transmitting, accessing, utilizing or disclosing* an electronic health record or participating in a health information exchange in accordance with NRS 439.581 to 439.595, inclusive, does not constitute an unfair trade practice pursuant to chapter 598A or 686A of NRS.

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

1. If the Division receives notification from the Department of Health and Human Services pursuant to section 1 of this act that a medical facility licensed pursuant to this chapter is not in compliance with the requirements of subsection 4 of NRS 439.589, the Division may, after notice and the opportunity for a hearing in accordance with the provisions of this chapter, require corrective



action or impose an administrative penalty in the amount prescribed by NRS 449.163.

2. The Division shall not suspend or revoke a license for failure to comply with the requirements of subsection 4 of NRS 439.589.

Sec. 1.4. NRS 449.029 is hereby amended to read as follows:

449.029 As used in NRS 449.029 to 449.240, inclusive, *and section 1.3 of this act*, unless the context otherwise requires, “medical facility” has the meaning ascribed to it in NRS 449.0151 and includes a program of hospice care described in NRS 449.196.

Sec. 1.5. NRS 449.0301 is hereby amended to read as follows:

449.0301 The provisions of NRS 449.029 to 449.2428, inclusive, *and section 1.3 of this act* do not apply to:

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

2. Foster homes as defined in NRS 424.014.

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

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

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

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

(b) Obtained the approval of the Director of the Department of Health and Human Services before undertaking a project, if such 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 **H**, *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 **H**, *and section 1.3 of this act*.

Sec. 1.92. Chapter 450B of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the health authority receives notification from the Department of Health and Human Services pursuant to section 1 of this act that the holder of a permit to operate an ambulance, air ambulance or vehicle of a fire-fighting agency is not in compliance with the requirements of subsection 4 of NRS 439.589, the health authority may, after notice and the opportunity for a hearing in accordance with the provisions of this chapter, require corrective action or impose an administrative penalty in an amount established by regulation of the board.

2. The health authority shall not suspend or revoke a permit for failure to comply with the requirements of subsection 4 of NRS 439.589.

Sec. 1.94. NRS 287.010 is hereby amended to read as follows:

287.010 1. The governing body of any county, school district, municipal corporation, political subdivision, public



corporation or other local governmental agency of the State of Nevada may:

(a) Adopt and carry into effect a system of group life, accident or health insurance, or any combination thereof, for the benefit of its officers and employees, and the dependents of officers and employees who elect to accept the insurance and who, where necessary, have authorized the governing body to make deductions from their compensation for the payment of premiums on the insurance.

(b) Purchase group policies of life, accident or health insurance, or any combination thereof, for the benefit of such officers and employees, and the dependents of such officers and employees, as have authorized the purchase, from insurance companies authorized to transact the business of such insurance in the State of Nevada, and, where necessary, deduct from the compensation of officers and employees the premiums upon insurance and pay the deductions upon the premiums.

(c) Provide group life, accident or health coverage through a self-insurance reserve fund and, where necessary, deduct contributions to the maintenance of the fund from the compensation of officers and employees and pay the deductions into the fund. The money accumulated for this purpose through deductions from the compensation of officers and employees and contributions of the governing body must be maintained as an internal service fund as defined by NRS 354.543. The money must be deposited in a state or national bank or credit union authorized to transact business in the State of Nevada. Any independent administrator of a fund created under this section is subject to the licensing requirements of chapter 683A of NRS, and must be a resident of this State. Any contract with an independent administrator must be approved by the Commissioner of Insurance as to the reasonableness of administrative charges in relation to contributions collected and benefits provided. The provisions of NRS **439.581 to 439.595, inclusive, and section 1 of this act**, 686A.135, 687B.352, 687B.408, 687B.723, 687B.725, 689B.030 to 689B.050, inclusive, 689B.265, 689B.287 and 689B.500 apply to coverage provided pursuant to this paragraph, except that the provisions of NRS 689B.0378, 689B.03785 and 689B.500 only apply to coverage for active officers and employees of the governing body, or the dependents of such officers and employees.

(d) Defray part or all of the cost of maintenance of a self-insurance fund or of the premiums upon insurance. The money for contributions must be budgeted for in accordance with the laws



governing the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada.

2. If a school district offers group insurance to its officers and employees pursuant to this section, members of the board of trustees of the school district must not be excluded from participating in the group insurance. If the amount of the deductions from compensation required to pay for the group insurance exceeds the compensation to which a trustee is entitled, the difference must be paid by the trustee.

3. In any county in which a legal services organization exists, the governing body of the county, or of any school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada in the county, may enter into a contract with the legal services organization pursuant to which the officers and employees of the legal services organization, and the dependents of those officers and employees, are eligible for any life, accident or health insurance provided pursuant to this section to the officers and employees, and the dependents of the officers and employees, of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency.

4. If a contract is entered into pursuant to subsection 3, the officers and employees of the legal services organization:

(a) Shall be deemed, solely for the purposes of this section, to be officers and employees of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency with which the legal services organization has contracted; and

(b) Must be required by the contract to pay the premiums or contributions for all insurance which they elect to accept or of which they authorize the purchase.

5. A contract that is entered into pursuant to subsection 3:

(a) Must be submitted to the Commissioner of Insurance for approval not less than 30 days before the date on which the contract is to become effective.

(b) Does not become effective unless approved by the Commissioner.

(c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.

6. As used in this section, “legal services organization” means an organization that operates a program for legal aid and receives money pursuant to NRS 19.031.



Sec. 1.96. NRS 287.04335 is hereby amended to read as follows:

287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS *439.581 to 439.595, inclusive, and section 1 of this act*, 686A.135, 687B.352, 687B.409, 687B.723, 687B.725, 689B.0353, 689B.255, 695C.1723, 695G.150, 695G.155, 695G.160, 695G.162, 695G.1635, 695G.164, 695G.1645, 695G.1665, 695G.167, 695G.1675, 695G.170 to 695G.174, inclusive, 695G.176, 695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive, and 695G.405, in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.

Sec. 1.98. NRS 603A.100 is hereby amended to read as follows:

603A.100 1. The provisions of NRS 603A.010 to 603A.290, inclusive, do not apply to the maintenance or transmittal of information in accordance with NRS 439.581 to 439.595, inclusive, *and section 1 of this act* and the regulations adopted pursuant thereto.

2. A data collector who is also an operator, as defined in NRS 603A.330, shall comply with the provisions of NRS 603A.300 to 603A.360, inclusive.

3. Any waiver of the provisions of NRS 603A.010 to 603A.290, inclusive, is contrary to public policy, void and unenforceable.

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 care records

~~[may]~~:

(a) Must, except as otherwise provided in subsections 5 and 6 of NRS 439.589, be created, maintained, transmitted and exchanged electronically as required by subsection 4 of NRS 439.589; and



(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 section 1 of this act* 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. *If a health care licensing board receives notification from the Department of Health and Human Services pursuant to section 1 of this act that a provider of health care to which the health care licensing board has issued a license is not in compliance with the requirements of subsection 4 of NRS 439.589, the health care licensing board may, after notice and the opportunity for a hearing in accordance with the provisions of this title, require corrective action or impose an administrative penalty in an amount not to exceed the maximum penalty that the health care licensing board is authorized to impose for other violations. The health care licensing board shall not suspend or revoke a*



license for failure to comply with the requirements of subsection 4 of NRS 439.589.

9. The provisions of this section , *except for the provisions of paragraph (a) of subsection 1 and subsection 8*, do not apply to a pharmacist.

~~9.1~~ 10. 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.

11. *As used in this section:*

(a) *“Health care licensing board” means:*

(1) *A board created pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637B, 639, 640, 640A, 640B, 640C, 641, 641A, 641B, 641C or 641D of NRS.*

(2) *The Division of Public and Behavioral Health of the Department of Health and Human Services.*

(3) *The State Board of Health with respect to licenses issued pursuant to chapter 640D or 640E of NRS.*

(b) *“License” has the meaning ascribed to it in section 1 of this act.*

Sec. 2.05. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and an opportunity for a hearing as required by law, impose an administrative fine of not more than \$10,000 for each violation on, recover reasonable investigative fees and costs incurred from, suspend, revoke, deny the issuance or renewal of or place conditions on the license of, and place on probation or impose any combination of the foregoing on any licensee who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his or her license by the use of fraud or deceit.

(c) Violates any of the provisions of this chapter.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.029 to 449.2428, inclusive, *and section 1.3 of this act*, as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

(e) Violates any regulation of the Board prescribing additional standards of conduct for licensees, including, without limitation, a code of ethics.



(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the licensee and the patient or resident for the financial or other gain of the licensee.

2. If a licensee requests a hearing pursuant to subsection 1, the Board shall give the licensee written notice of a hearing pursuant to NRS 233B.121 and 241.034. A licensee may waive, in writing, his or her right to attend the hearing.

3. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that set forth a procedure pursuant to which the Chair of the Board may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

5. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

Sec. 2.1. Chapter 680A of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Commissioner receives notification from the Department of Health and Human Services pursuant to section 1 of this act that an insurer is not in compliance with the requirements of subsection 4 of NRS 439.589, the Commissioner may, after notice and the opportunity for a hearing in accordance with the provisions of this title, require corrective action or impose an administrative fine in the amount prescribed by NRS 680A.200.

2. The Commissioner shall not suspend or revoke the certificate of authority of an insurer for failure to comply with the requirements of subsection 4 of NRS 439.589.

Sec. 2.15. NRS 680A.095 is hereby amended to read as follows:

680A.095 1. Except as otherwise provided in subsection 3, an insurer which is not authorized to transact insurance in this State may not transact reinsurance with a domestic insurer in this State, by mail or otherwise, unless the insurer holds a certificate of authority as a reinsurer in accordance with the provisions of NRS 680A.010 to 680A.150, inclusive, *and section 2.1 of this act*, 680A.160 to 680A.280, inclusive, 680A.320 and 680A.330.



2. To qualify for authority only to transact reinsurance, an insurer must meet the same requirements for capital and surplus as are imposed on an insurer which is authorized to transact insurance in this State.

3. This section does not apply to the joint reinsurance of title insurance risks or to reciprocal insurance authorized pursuant to chapter 694B of NRS.

Sec. 2.2. Chapter 683A of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Commissioner receives notification from the Department of Health and Human Services pursuant to section 1 of this act that an administrator is not in compliance with the requirements of subsection 4 of NRS 439.589, the Commissioner may, after notice and the opportunity for a hearing in accordance with the provisions of this chapter, require corrective action or impose an administrative fine in the amount prescribed by NRS 683A.461.

2. The Commissioner shall not suspend or revoke the certificate of registration of an administrator for failure to comply with the requirements of subsection 4 of NRS 439.589.

Sec. 2.25. NRS 683A.3683 is hereby amended to read as follows:

683A.3683 A producer of limited lines travel insurance and each travel retailer, or employee or authorized representative of a travel retailer, who offers or disseminates travel insurance under the license of a producer of limited lines travel insurance shall be subject to the provisions of NRS 683A.451 to 683A.520, inclusive, *and section 2.2 of this act* and chapter 686A of NRS.

Sec. 2.3. NRS 692A.270 is hereby amended to read as follows:

692A.270 The provisions of NRS 683A.321, 683A.331, 683A.341, 683A.400, 683A.451 to 683A.490, inclusive, *and section 2.2 of this act* and 683A.520 apply to title insurers, title agents and escrow officers.

Sec. 2.35. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Commissioner receives notification from the Department of Health and Human Services pursuant to section 1 of this act that a health maintenance organization is not in compliance with the requirements of subsection 4 of NRS 439.589, the Commissioner may, after notice and the opportunity for a hearing in accordance with the provisions of this chapter, require



corrective action or impose an administrative fine in the amount prescribed by NRS 695C.350.

2. The Commissioner shall not suspend or revoke the certificate of authority of a health maintenance organization for failure to comply with the requirements of subsection 4 of NRS 439.589.

Sec. 2.4. NRS 719.200 is hereby amended to read as follows:

719.200 1. Except as otherwise provided in subsection 2, the provisions of this chapter apply to electronic records and electronic signatures relating to a transaction.

2. The provisions of this chapter do not apply to a transaction to the extent it is governed by:

(a) Except as otherwise specifically provided by law, a law governing the creation and execution of wills, codicils or testamentary trusts;

(b) The Uniform Commercial Code other than NRS 104.1306, 104.2101 to 104.2725, inclusive, and 104A.2101 to 104A.2532, inclusive; or

(c) The provisions of NRS 439.581 to 439.595, inclusive, *and section 1 of this act* and the regulations adopted pursuant thereto.

3. The provisions of this chapter apply to an electronic record or electronic signature otherwise excluded from the application of this chapter under subsection 2 to the extent it is governed by a law other than those specified in subsection 2.

4. A transaction subject to the provisions of this chapter is also subject to other applicable substantive law.

Sec. 2.45. NRS 720.140 is hereby amended to read as follows:

720.140 1. Except as otherwise provided in this subsection, the provisions of this chapter apply to any transaction for which a digital signature is used to sign an electronic record. The provisions of this chapter do not apply to a digital signature that is used to sign an electronic health record in accordance with NRS 439.581 to 439.595, inclusive, *and section 1 of this act* and the regulations adopted pursuant thereto.

2. As used in this section, “electronic record” has the meaning ascribed to it in NRS 719.090.

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 subsection 4 of NRS 439.589, as amended by section 1.08 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. 2.7. 1. On or before July 1, 2023, the Director of the Department shall convene an advisory group to advise the Director of the Department in the adoption of regulations pursuant to NRS 439.589, as amended by section 1.08 of this act. The advisory group shall consist of:

(a) The following ex officio members:

(1) The Director of the Department;

(2) The Administrator of the Division of Public and Behavioral Health of the Department;

(3) The Administrator of the Division of Health Care Financing and Policy of the Department;

(4) The Administrator of the Division of Welfare and Supportive Services of the Department;

(5) The Commissioner of Insurance;

(6) Each district health officer appointed pursuant to NRS 439.368 or 439.400;

(7) The Executive Officer of the Public Employees’ Benefits Program; and

(8) The Executive Director of the Silver State Health Insurance Exchange; and

(b) The following members appointed by the Director:

(1) Representatives of third parties, as defined in NRS 439.589, as amended by section 1.08 of this act, that provide health coverage in this State;



(2) Representatives of hospitals, as defined in NRS 449.012, other medical facilities, as defined in NRS 449.0151, and facilities for the dependent, as defined in NRS 449.0045;

(3) Representatives of consumers of health care;

(4) Representatives of labor organizations;

(5) Professionals in the field of information privacy and security;

(6) Professionals in the field of health information technology and the interoperability of health information;

(7) Representatives of community-based organizations whose work relates to health information;

(8) Representatives of county and city health departments;

(9) Representatives of social services agencies; and

(10) Representatives of community-based organizations whose work relates to social services.

2. Members appointed to the advisory group pursuant to paragraph (b) of subsection 1 serve at the pleasure of the Director of the Department. If a vacancy occurs, the Director shall appoint a person similarly qualified to replace that member.

3. Members of the advisory group serve without compensation or per diem but are entitled to receive reimbursement for travel expenses in the same amount provided for state officers and employees generally.

4. The Director of the Department shall serve as the Chair of the advisory group.

5. A majority of the voting members of the advisory group constitutes a quorum for the transaction of business, and a majority of the members of a quorum present at any meeting is sufficient for any official action taken by the advisory group.

6. Each member of the advisory group who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation so that the officer or employee may prepare for and attend meetings of the advisory group and perform any work necessary to carry out the duties of the advisory group in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the advisory group to make up the time the officer or employee is absent from work to carry out duties as a member of the advisory group or use annual leave or compensatory time for the absence.

7. The advisory group may establish subcommittees and working groups consisting of members of the advisory group or



other persons to assist the advisory group in the performance of its duties.

8. The advisory group shall advise the Director of the Department on the development and implementation of the regulations adopted pursuant to NRS 439.589, as amended by section 1.08 of this act.

9. The Director of the Department shall:

(a) On or before August 1, 2024, present at a meeting of the Joint Interim Standing Committee on Health and Human Services concerning the progress of the Director in developing and implementing the regulations adopted pursuant to NRS 439.589, as amended by section 1.08 of this act; and

(b) On or before December 31, 2024, submit to the Director of the Legislative Counsel Bureau for transmittal to the 83rd Session of the Legislature a report concerning the progress of the Director in developing and implementing the regulations adopted pursuant to NRS 439.589, as amended by section 1.08 of this act.

10. As used in this section, “Department” means the Department of Health and Human Services.

Sec. 2.8. 1. Hospitals and physician group practices with more than 20 employees shall comply with the provisions of subsection 4 of NRS 439.589, as amended by section 1.08 of this act, on or before July 1, 2024.

2. Notwithstanding the amendatory provisions of sections 1, 1.08, 1.3, 1.92, 1.94, 1.96, 2, 2.1, 2.2 and 2.35 of this act:

(a) Persons and entities subject to the provisions of subsection 4 of NRS 439.589, as amended by section 1.08 of this act, other than the persons and entities described in paragraph (b) of this subsection and subsection 1 of this section, are not required to comply with those provisions until July 1, 2025.

(b) Physician group practices or other business entities organized for the purpose of practicing a health care profession with 20 or fewer employees, including, without limitation, sole proprietorships, are not required to comply with the provisions of subsection 4 of NRS 439.589, as amended by section 1.08 of this act, until January 1, 2030.

3. As used in this section:

(a) “Hospital” has the meaning ascribed to it in NRS 449.012.

(b) “Health care profession” means any profession practiced by providers of health care, as defined in NRS 629.031.

(c) “Physician group practice” means any business entity organized for the purpose of the practice of medicine or osteopathic medicine by more than one physician.



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 1.09, 1.1 and 1.2 of this act become effective upon passage and approval.

2. Sections 2.5 and 2.7 of this act become effective on July 1, 2023.

3. Sections 1 to 1.08, inclusive, 1.3 to 2.45, inclusive, 2.8 and 3 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 July 1, 2024, for all other purposes.

