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FIRST REPRINT

A.B. 248

ASSEMBLY BILL NO. 248—ASSEMBLYMEN TITUS, DOOLING, JONES,
DICKMAN; HICKEY, O’NEILL, OSCARSON, SHELTON,
SILBERKRAUS AND WHEELER

MARCH 11, 2015

JOINT SPONSORS: SENATORS HARDY;
GOICOECHEA AND GUSTAVSON

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing reporting of information by physicians to the Department of Motor Vehicles concerning patients with epilepsy. (BDR 40-930)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 public health; authorizing physicians, under certain circumstances, to report to the Department of Motor Vehicles certain information regarding patients who have epilepsy; abolishing certain duties of physicians to report certain patient information; requiring physicians to inform certain patients with epilepsy of the dangers of operating a motor vehicle; providing that certain reports and statements provided to the Department concerning patients with epilepsy are not subject to the doctor-patient privilege under certain circumstances; providing that a cause of action may not be brought against a physician for failing to report such information to the Department; providing that a cause of action may not be brought against a physician for reporting certain information regarding patients who have epilepsy to the Department except in certain circumstances; and providing other matters properly relating thereto.



* A B 2 4 8 R 1 *

Legislative Counsel’s Digest:

1 Existing law requires: (1) a physician to report immediately to the Division of
 2 Public and Behavioral Health of the Department of Health and Human Services, in
 3 writing, the name, age and address of every person diagnosed as a case of epilepsy,
 4 as defined by the State Board of Health; and (2) the Division to report this
 5 information to the Department of Motor Vehicles. (NRS 439.270) **Section 1** of this
 6 bill abolishes these duties and the requirement that the State Board define the term
 7 “epilepsy.” Instead, **section 1** requires a physician who determines that a patient’s
 8 epilepsy severely impairs the ability of a patient to safely operate a motor vehicle to
 9 notify such a patient of this determination and obtain from the patient a signed
 10 statement acknowledging the notification. If the patient refuses to sign an
 11 acknowledgment, **section 1** requires the physician to sign a written statement
 12 verifying that the physician provided the required notification. **Section 1** authorizes
 13 a physician, upon the request of the Department of Motor Vehicles, to provide a
 14 copy of the acknowledgment or statement to the Department.

15 **Section 4** of this bill prohibits a person with epilepsy from operating a motor
 16 vehicle if the person has been informed by a physician that his or her condition
 17 would severely impair his or her ability to safely operate a motor vehicle. **Section 4**
 18 authorizes a physician who is aware that a person with epilepsy has violated this
 19 provision to submit, without the person’s consent, a written report to the
 20 Department of Motor Vehicles that includes the name, address and age of the
 21 person.

22 **Section 2** of this bill provides that a person who has been informed by a
 23 physician that his or her condition would severely impair his or her ability to safely
 24 operate a motor vehicle has no privilege to prevent a physician from disclosing this
 25 information to the Department of Motor Vehicles.

26 **Sections 1 and 4** provide that the Department of Motor Vehicles may only use
 27 such information to determine whether a person is eligible to operate a motor
 28 vehicle in this State. **Sections 1 and 4** also provide that no cause of action may be
 29 brought against a physician: (1) for failing to provide such information to the
 30 Department; or (2) for providing such information to the Department, unless the
 31 physician acted with malice, intentional misconduct, gross negligence or intentional
 32 or knowing violation of the law.

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

1 **Section 1.** NRS 439.270 is hereby amended to read as follows:
 2 439.270 1. ~~[The State Board of Health shall define epilepsy~~
 3 ~~for the purposes of the reports hereinafter referred to in this section.~~
 4 ~~—2.— All physicians shall report immediately to the Division, in~~
 5 ~~writing, the name, age and address of every person diagnosed as a~~
 6 ~~case of epilepsy.~~
 7 ~~—3.— The Division shall report, in writing, to the Department of~~
 8 ~~Motor Vehicles the name, age and address of every person reported~~
 9 ~~to it as a case of epilepsy.~~
 10 ~~—4.— Except as otherwise provided in NRS 239.0115, the reports~~
 11 ~~are for the information of the Department of Motor Vehicles and~~
 12 ~~must be kept confidential~~ *If a physician determines that, in his or*
 13 *her professional judgment, a patient’s epilepsy severely impairs*



1 *the ability of the patient to safely operate a motor vehicle, the*
2 *physician shall:*

3 *(a) Adequately inform the patient of the dangers of operating a*
4 *motor vehicle with his or her condition until such time as the*
5 *physician or another physician informs the patient that*
6 *the patient's condition does not severely impair the ability of the*
7 *patient to safely operate a motor vehicle; and*

8 *(b) Except as otherwise provided in subsection 2:*

9 *(1) Require the patient to sign a statement acknowledging*
10 *that he or she has been informed by the physician of the dangers*
11 *of operating a motor vehicle with his or her condition; and*

12 *(2) Retain the original signed statement and provide a copy*
13 *of the signed statement to the patient.*

14 *2. If a patient refuses to sign a statement pursuant to*
15 *paragraph (b) of subsection 1, the physician shall sign a written*
16 *statement verifying that the physician informed the patient of all*
17 *material facts and information required by paragraph (a) of*
18 *subsection 1. The physician shall, to the extent practicable,*
19 *provide a copy of the statement signed by the physician to the*
20 *patient.*

21 *3. A statement signed by a patient pursuant to subsection 1 or*
22 *a statement signed by a physician pursuant to subsection 2 shall*
23 *be deemed a health care record, as defined in NRS 629.021.*

24 *4. A physician may, upon the request of the Department,*
25 *provide to the Department a copy of a statement signed by a*
26 *patient pursuant to subsection 1 or a statement signed by the*
27 *physician pursuant to subsection 2. A statement received by the*
28 *Department pursuant to this subsection:*

29 *(a) Is confidential, except that the contents of the statement*
30 *may be disclosed to the patient; and*

31 *(b) May be used by the Department solely to determine the*
32 *eligibility of [any person] the patient to operate a vehicle on the*
33 *streets and highways of this State.*

34 ~~*5. [A violation of this section is a misdemeanor.] The*~~
35 ~~*provision by a physician of a copy of a statement pursuant to*~~
36 ~~*subsection 4 is solely within his or her discretion. No cause of*~~
37 ~~*action may be brought against a physician based on the fact that*~~
38 ~~*he or she did not provide such a copy.*~~

39 *6. No cause of action may be brought against a physician*
40 *based on the fact that he or she provided a copy of a statement*
41 *pursuant to subsection 4 unless the physician acted with malice,*
42 *intentional misconduct, gross negligence or intentional or*
43 *knowing violation of the law.*

44 *7. As used in this section:*

45 *(a) "Department" means the Department of Motor Vehicles.*



1 ***(b) "Patient" means a person who consults or is examined or***
2 ***interviewed by a physician for the purposes of diagnosis or***
3 ***treatment.***

4 **Sec. 2.** NRS 49.245 is hereby amended to read as follows:

5 49.245 There is no privilege under NRS 49.225 or 49.235:

6 1. For communications relevant to an issue in proceedings to
7 hospitalize the patient for mental illness, if the doctor in the course
8 of diagnosis or treatment has determined that the patient is in need
9 of hospitalization.

10 2. As to communications made in the course of a court-ordered
11 examination of the condition of a patient with respect to the
12 particular purpose of the examination unless the court orders
13 otherwise.

14 3. As to written medical or hospital records relevant to an issue
15 of the condition of the patient in any proceeding in which the
16 condition is an element of a claim or defense.

17 4. In a prosecution or mandamus proceeding under chapter
18 441A of NRS.

19 5. As to any information communicated to a physician in an
20 effort unlawfully to procure a dangerous drug or controlled
21 substance, or unlawfully to procure the administration of any such
22 drug or substance.

23 6. As to any written medical or hospital records which are
24 furnished in accordance with the provisions of NRS 629.061.

25 7. As to records that are required by chapter 453 of NRS to be
26 maintained.

27 8. ***As to reports made to the Department of Motor Vehicles***
28 ***pursuant to subsection 2 of section 4 of this act and any statements***
29 ***provided to the Department pursuant to NRS 439.270.***

30 9. If the services of the physician are sought or obtained to
31 enable or aid a person to commit or plan to commit fraud or any
32 other unlawful act in violation of any provision of chapter 616A,
33 616B, 616C, 616D or 617 of NRS which the person knows or
34 reasonably should know is fraudulent or otherwise unlawful.

35 **Sec. 3.** NRS 239.010 is hereby amended to read as follows:

36 239.010 1. Except as otherwise provided in this section and
37 NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516,
38 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160,
39 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413,
40 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345,
41 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270,
42 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280,
43 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130,
44 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057,
45 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245,



1 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801,
2 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450,
3 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662,
4 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140,
5 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
6 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350,
7 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300,
8 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140,
9 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020,
10 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140,
11 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350,
12 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025,
13 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135,
14 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070,
15 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205,
16 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
17 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080,
18 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275,
19 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264,
20 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460,
21 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,
22 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320,
23 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175,
24 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534,
25 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195,
26 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570,
27 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610,
28 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,
29 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403,
30 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536,
31 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040,
32 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964,
33 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210,
34 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
35 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265,
36 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133,
37 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125,
38 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185,
39 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089,
40 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400,
41 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191,
42 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625,
43 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225,
44 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320,
45 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065,



1 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133,
2 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340,
3 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190,
4 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280,
5 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,
6 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117,
7 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196,
8 704B.320, 704B.325, 706.1725, 710.159, 711.600, *and section 4 of*
9 *this act*, sections 35, 38 and 41 of chapter 478, Statutes of Nevada
10 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and
11 unless otherwise declared by law to be confidential, all public books
12 and public records of a governmental entity must be open at all
13 times during office hours to inspection by any person, and may be
14 fully copied or an abstract or memorandum may be prepared from
15 those public books and public records. Any such copies, abstracts or
16 memoranda may be used to supply the general public with copies,
17 abstracts or memoranda of the records or may be used in any other
18 way to the advantage of the governmental entity or of the general
19 public. This section does not supersede or in any manner affect the
20 federal laws governing copyrights or enlarge, diminish or affect in
21 any other manner the rights of a person in any written book or
22 record which is copyrighted pursuant to federal law.

23 2. A governmental entity may not reject a book or record
24 which is copyrighted solely because it is copyrighted.

25 3. A governmental entity that has legal custody or control of a
26 public book or record shall not deny a request made pursuant to
27 subsection 1 to inspect or copy or receive a copy of a public book or
28 record on the basis that the requested public book or record contains
29 information that is confidential if the governmental entity can
30 redact, delete, conceal or separate the confidential information from
31 the information included in the public book or record that is not
32 otherwise confidential.

33 4. A person may request a copy of a public record in any
34 medium in which the public record is readily available. An officer,
35 employee or agent of a governmental entity who has legal custody
36 or control of a public record:

37 (a) Shall not refuse to provide a copy of that public record in a
38 readily available medium because the officer, employee or agent has
39 already prepared or would prefer to provide the copy in a different
40 medium.

41 (b) Except as otherwise provided in NRS 239.030, shall, upon
42 request, prepare the copy of the public record and shall not require
43 the person who has requested the copy to prepare the copy himself
44 or herself.



1 **Sec. 4.** Chapter 483 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *A person with epilepsy shall not operate a motor vehicle if*
4 *that person has been informed by a physician pursuant to NRS*
5 *439.270 that his or her condition would severely impair his or her*
6 *ability to safely operate a motor vehicle.*

7 2. *If a physician is aware that a person has violated*
8 *subsection 1 after the physician has informed the person pursuant*
9 *to NRS 439.270 that the person's condition would severely impair*
10 *his or her ability to safely operate a motor vehicle, the physician*
11 *may, without the consent of the person, submit a written report to*
12 *the Department that includes the name, address and age of the*
13 *person. A report received by the Department pursuant to this*
14 *subsection:*

15 (a) *Is confidential, except that the contents of the report may*
16 *be disclosed to the person about whom the report is made;*

17 (b) *May include the statement maintained by the physician*
18 *pursuant to subsection 3 of NRS 439.270; and*

19 (c) *May be used by the Department solely to determine the*
20 *eligibility of the person to operate a vehicle on the streets and*
21 *highways of this State.*

22 3. *The submission by a physician of a report pursuant to*
23 *subsection 2 is solely within his or her discretion. No cause of*
24 *action may be brought against a physician based on the fact that*
25 *he or she did not submit such a report.*

26 4. *No cause of action may be brought against a physician*
27 *based on the fact that he or she submitted a report pursuant to*
28 *subsection 2 unless the physician acted with malice, intentional*
29 *misconduct, gross negligence or intentional or knowing violation*
30 *of the law.*

