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Assembly Bill 7 (2023)

Training Webinar

Division of Health Care Financing and Policy

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Department of Health and Human Services

Helping people. It's who we are and what we do.



Agenda

1. Overview of Assembly Bill 7 (2023)
2. Regulations Development and Approval
3. Notification to Providers and Medical Facilities
 1. What does this mean and who does it apply to
 2. Compliance deadlines
 3. Enforcement
4. Navigating Electronic Health Records (EHRs) and Health Information Exchanges (HIEs)
5. Health Care Provider Waiver Process



Overview of Assembly Bill 7



PPC Bill Draft Request

Began as a 2022 [Patient Protection Commission](#) (PPC) Bill Draft Request (BDR) 40-381 in advance of Nevada's 2023 Session, later printed as [Assembly Bill 7](#).

Through this bill, the Commission proposed mandating that providers of health care and custodians of health care records implement an interoperable electronic health care records system and ensure patients can receive and/or forward their medical records electronically based on their personal preference.



Overview of AB 7 (2023)

Assembly Bill 7 requires all licensed providers or insurers to maintain, transmit and exchange health information in accordance with the regulations adopted pursuant to section 1.08 of the bill and the provisions of NRS 439.581 to 439.595.

Per NRS 439.5895(3)(a.) “**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.



Overview of AB 7 (2023)

Assembly Bill 7 requires the Director of the Department of Health and Human Services (DHHS) to **adopt regulations** (Nevada Administrative Code – NAC) governing health information exchanges and the transmittal, ownership, management, use and confidentiality of electronic health records.

- ✓ Prescribe by regulation a framework for the **electronic maintenance, transmittal and exchange** of electronic health records, prescriptions and health-related information.
- ✓ Require the ability for **patients to directly access and forward** their records electronically.
- ✓ Require the **interoperability** of such networks and technologies.



Overview of AB 7 (2023) – continued

Assembly Bill 7 also required DHHS to convene an **advisory group** to advise the Director on development of regulations to prescribe standards relating to electronic health records, health-related information and health information exchanges.

- ✓ DHHS established the Electronic Health Information Advisory Group (EHIAG).
- ✓ 19 voting members appointed by DHHS Director.
- ✓ 8 ex-officio members.
- ✓ 4 meetings held to reach consensus on draft regulation language for DHHS Director.



Regulations Development and Approval



Draft Regulations: EHIAG Main Points

Flexible Options for Providers of Health Care

- Allow **two** options for compliance:
 - Compliant Electronic Health Record (EHR)
 - Compliant Health Information Exchange (HIE)

Direct Patient Access and Forwarding Electronically

- Important that both compliant solutions allowed patients direct access to their health records electronically, and the ability to forward those records electronically to others of their choosing

Alignment with Federal Best Practices re: Interoperability

- Compliant EHR must be certified by the [Office of the National Coordinator for Health Information Technology](#) of the United States Department of Health and Human Services
- Compliant HIE must be a member of the [Trusted Exchange Framework and Common Agreement \(TEFCA\)](#)



Draft Regulations Submitted to LCB

DHHS chose to add language in the draft regulations:

No provider of health care is required to use a health information exchange.

Maintaining alignment with all requirements as set forth in the bill

- AB 7 Section 1.08 subsection 3





Draft Regulations after EHIAG Approval





Approved Regulations

Approved regulation **effective date:** December 19, 2024



All health care providers and medical facilities licensed to operate in Nevada must be able to maintain, transmit, and exchange health information in accordance with state law and regulations. See [NRS 439.589](#) and [LCB File No. R173-24](#). These requirements must be met as follows:

By July 1, 2024:

- Hospitals
- Physician group practices with more than 20 employees

By July 1, 2025:

- All other healthcare providers and entities (unless listed below)

By January 1, 2030:

- Physician group practices with 20 or fewer employees
- Solo practitioners (sole proprietorships)
- Small health care businesses

[NRS 608.010](#) “Employee” defined. “Employee” includes both male and female persons in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed.



Notification to Providers and Medical Facilities



Who Does this NV Law Apply to?

A **medical facility** licensed pursuant to Chapter 449 of NRS.

This means you must be licensed as one of the following specific types of medical facilities per NRS 449.0151:

- A surgical center for ambulatory patients;
- A freestanding birthing center;
- An independent center for emergency medical care;
- An agency to provide nursing in the home;
- A facility for intermediate care;
- A facility for skilled nursing;
- A facility for hospice care;
- A hospital;
- A psychiatric hospital;
- A facility for the treatment of irreversible renal disease;
- A rural clinic;
- A nursing pool;
- A facility for modified medical detoxification;
- A facility for refractive surgery;
- A mobile unit;
- A community triage center; or
- A rural emergency hospital.



Who Does this NV Law Apply to? – continued 1

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:
Emergency Medical
Services



Who Does this NV Law Apply to? – continued 2

A provider of health care as defined in NRS 629.031, who is licensed pursuant to title 54 of NRS.

This means you must be licensed as one of the following specific types of health care providers per NRS 629.031:

- A physician licensed pursuant to chapter 630, 630A or 633 of NRS;
- A physician assistant;
- An anesthesiologist assistant;
- A dentist;
- A dental therapist;
- A dental hygienist;
- A licensed nurse;
- A person who holds a license as an attendant or who is certified as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to chapter 450B of NRS or authorized to practice as an emergency medical technician, advanced emergency medical technician or paramedic in this State under the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact ratified by NRS 450B.145;
- A dispensing optician;
- An optometrist;
- A speech-language pathologist;
- An audiologist;
- A practitioner of respiratory care;
- A licensed physical therapist;
- An occupational therapist;
- A podiatric physician;
- A licensed psychologist;
- A licensed marriage and family therapist;
- A licensed clinical professional counselor;
- A music therapist;
- A chiropractic physician;
- An athletic trainer;
- A perfusionist;
- A doctor of Oriental medicine in any form;
- A medical laboratory director or technician;
- A pharmacist;
- A licensed dietitian;
- An associate in social work, a social worker, a master social worker, an independent social worker or a clinical social worker licensed pursuant to chapter 641B of NRS;
- An alcohol and drug counselor or a problem gambling counselor who is certified pursuant to chapter 641C of NRS;
- An alcohol and drug counselor or a clinical alcohol and drug counselor who is licensed pursuant to chapter 641C of NRS;
- A behavior analyst, assistant behavior analyst or registered behavior technician;
- A naprapath; or
- A medical facility as the employer of any person specified in this subsection.



Who Does this NV Law Apply to? – continued 3

Any person licensed
pursuant to Title 57 of NRS
- Insurance

[NRS Table of Titles and
Chapters](#)



FAQs re: Applicability

How can I tell if this State law and regulation apply to me?

- If you are one of the licensed health care provider types, licensed medical facility types, or permit holder types listed on the previous slides, or are licensed pursuant to Title 57 of NRS – Insurance, this law applies to YOU.
- As an example, massage therapists are not included in any of the above; therefore, this State law does not apply to massage therapists.

Does this State law and regulation only apply to those who see Medicaid patients?

- No. This State law and regulation apply to **all Nevada licensed providers and insurers**, regardless of payer source or billing practices.

Does this State law and regulation apply to me if I see Nevada patients, but I am not a Nevada-licensed provider, and my practice and licensure are out of state?

- No. This State law and regulation only applies to **Nevada licensed providers and insurers**, as defined in [NRS 439.5895\(3\)\(a.\)](#)



Compliance Deadlines

All health care providers and medical facilities licensed to operate in Nevada must be able to **maintain, transmit, and exchange health information** in accordance with State law and regulations; the requirements pursuant to [NRS 439.589](#) and [LCB File No. R173-24](#) must be met as follows:

By July 1, 2024:

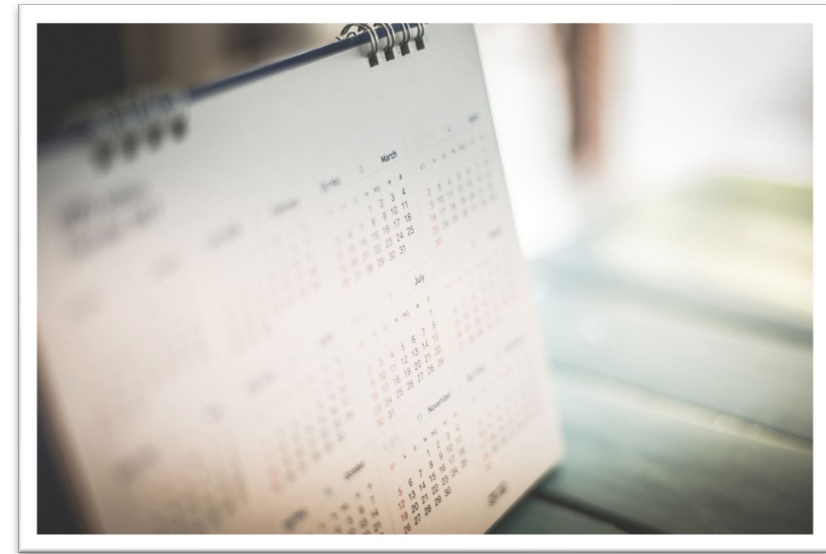
- Hospitals
- Physician group practices with more than 20 employees

By July 1, 2025:

- All other healthcare providers and entities (unless listed below)

By January 1, 2030:

- Physician group practices with 20 or fewer employees
- Solo practitioners (sole proprietorships)
- Small health care businesses



[AB7 \(2023\)](#) Section 2.8: “**Physician group practice**” means any business entity organized for the purpose of the practice of medicine or osteopathic medicine by more than one physician.

[NRS 608.010](#) “**Employee**” includes both male and female persons in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed.



Enforcement – Medical Facilities

AB7 (2023), Section 1.3: 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.

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



Enforcement - EMS

AB7 (2023), Section 1.92: 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.

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



Enforcement – Health Care Providers

AB7 (2023), Section 2 subsection 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.



FAQs re: Enforcement

Who enforces these new requirements?

- Your health care licensing or regulatory agency is responsible for enforcing the provisions of NRS 439.589 and corresponding regulations.

Can my health care provider license be suspended or revoked for noncompliance?

- No. Assembly Bill 7 (2023) specifies that health care provider licensure/certification cannot be revoked for noncompliance; however corrective action and/or administrative penalties may apply.

Can a provider be terminated from Medicaid for noncompliance with NRS 439.589?

- NRS are the codified laws of the state of Nevada, and NRS 439 under Title 40 governs Public Health and Safety, including but not limited to Nevada Medicaid. This State law and regulation apply to **all** Nevada licensed health care providers, medical facilities, and insurers, regardless of payer source or billing practices.
- Nevada Medicaid was delegated by DHHS to implement the provisions of Assembly Bill 7 (2023); the provisions do not apply only to Medicaid providers.



Navigating Electronic Health Records (EHRs) and Health Information Exchanges (HIEs)



EHR Basics

Is an electronic medical record (EMR) the same thing as an electronic health record (EHR)?

Quick answer = No.

Here is an [article that explains the difference](#) between the two from HealthIT.gov. Some highlights from the article:

- **Electronic medical records (EMRs)** are a digital version of the paper charts in the clinician's office. An EMR contains the medical and treatment history of the patients in one practice. But the information in EMRs doesn't travel easily out of the practice. In fact, the patient's record might even have to be printed out and delivered by mail to specialists and other members of the care team. In that regard, EMRs are not much better than a paper record.
- **Electronic health records (EHRs)** EHRs focus on the total health of the patient—going beyond standard clinical data collected in the provider's office and inclusive of a broader view on a patient's care. EHRs are designed to reach out beyond the health organization that originally collects and compiles the information. They are built to share information with other health care providers, such as laboratories and specialists, so they contain information from all the clinicians involved in the patient's care. The information moves with the patient—to the specialist, the hospital, the nursing home, the next state or even across the country.





Health Information Exchanges (HIEs)

Compliant HIEs must be a member of the Trusted Exchange Framework and Common Agreement (TEFCA)

EHRs and HIEs are related, but not the same.

- The HIE is the process of sharing health information between different health care systems and organizations.
- HIEs allow health care providers and patients to appropriately access and securely share a patient's vital medical information electronically.





FAQs

How can I ensure my EHR is compliant with this new State law?

- Compliant EHRs must be certified by the [Office of the National Coordinator for Health Information Technology](#) of the United States Department of Health and Human Services (ONC).
- Use this link: [CHPL Search](#) with default search criteria to see if your EHR meets the requirements. No result = not compliant.

Which Nevada department oversees certification of EHRs?

- There is no Nevada State department overseeing EHR certification. As documented in the approved regulations, all EHRs must be certified by the Office of the National Coordinator for Health Information Technology of the United States Department of Health and Human Services.

Is practice management software in compliance with the requirements of this new State law?

- Practice management software *alone* does not have the patient health record transmission or interoperability capabilities required by State law.

What does interoperability mean?

- Interoperability is the ability of two or more systems to **exchange** health information and **use** the information once it is received; interoperability allows health providers to have the infrastructure to deliver patient-centered, value driven care that improves health outcomes while reducing costs.



Provider Waiver Process



Provider Waiver from the Provisions of NRS 439.589(4)

Assembly Bill 7 requires DHHS to implement a process for **health care providers** to apply for a waiver from NRS 439.589(4) on the basis that:

- ✓ The health care provider does not have the infrastructure necessary to comply with those provisions; **and**
- ✓ 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.



Health Care Provider Waiver Program

All health care providers and medical facilities licensed to operate in Nevada must be able to maintain, transmit, and exchange health information in accordance with state law and regulations. See [NRS 439.589](#) and [LCB File No. R173-24](#).

Eligible health care providers may receive a waiver from the Department that exempts them from the electronic health information requirements of Nevada Revised Statute (NRS) 439.589(4), which mandates all providers maintain, transmit, and exchange health information in accordance with state law and regulations.

- **Deadline:** Waiver applications will be considered by the Department on a continuous basis.
- **Submission:** Email completed materials to: communityandprovider@dhcp.nv.gov
- **Required:** Complete waiver application form and notarized attestation with any applicable supporting documentation.

The waiver application process does not constitute any type of exemption during its review. Waiver application should be submitted at least 30 days in advance of any health care provider compliance deadline.

For all waiver application materials and instructions, navigate to the [EHIAG website](#), right-hand column:

Meetings

[DHCFP Public Meetings](#)

Waiver Program

[Application for Waiver of the Provisions of AB7 \(2023\)](#)
[Quick Reference Guide for AB7 Waiver Application](#)



Where Can I Find Additional Information?



Website for updates regarding all AB 7 (2023) programs: [EHIAdvisoryMain](#)

Assembly Bill 7 (2023): [AB7 Text](#)

Nevada Revised Statute (NRS) 439.589: [NRS: CHAPTER 439 - ADMINISTRATION OF PUBLIC HEALTH](#)

Contact us at:
CommunityAndProvider@dncfp.nv.gov



Acronyms

AB 7 = Assembly Bill 7 as passed through the 2023 Nevada Legislature

BDR = Bill Draft Request

DHCFP = Division of Health Care Financing and Policy

DHHS = Nevada Department of Health and Human Services

EHIAAG = Electronic Health Information Advisory Group

EHR = Electronic Health Record

EMR = Electronic Medical Record

FAQ = Frequently Asked Question

HIE = Health Information Exchange

LCB = Legislative Counsel Bureau

NRS = Nevada Revised Statute

ONC = Office of the National Coordinator for Health Information Technology

TEFCA = Trusted Exchange Framework and Common Agreement