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GENERAL GUIDANCE LETTER 25-004

Date: February 25, 2025
Revised August 12, 2025

From: Stacie Weeks, JD, MPH, Director, Nevada Health Authority
Malinda Southard, DC, CPM, Deputy Director, Nevada Health Authority

Subject: Individual Provider Application to Waive Requirements of Nevada Revised Statute (NRS) 439.589(4)

Purpose: This letter serves as state guidance on the implementation of NRS 439.589, specifically the process through which health care providers can apply for a compliance waiver pursuant to NRS 439.589(6).

NRS 439.589(4) requires all health care providers and medical facilities to maintain, transmit and exchange health information electronically in accordance with adopted regulations contained in LCB File No. R173-24. However, pursuant to NRS 439.589(6) and Section 157 of Senate Bill 494 ([SB494](#)) of the 2025 Legislative Session, a health care provider may apply to the Authority for a waiver from the requirements of NRS 439.589(4) based on circumstances related to challenges with obtaining infrastructure necessary for compliance.

The text of the adopted regulation is available at the State of Nevada Register of Administrative Regulations at https://www.leg.state.nv.us/register/indexes/2024_NAC_REGISTER_NUMERICAL.htm.

If any health care provider or medical facility (who is not otherwise exempt) is not in compliance with this regulation, the provider or facility will be reported by the Authority to the appropriate licensing or regulatory agency for administrative penalties and/or corrective action. A health care provider may seek a waiver of these requirements as described below.

Authorities:

Per [NRS 439.589\(4\)](#) and Section 157 of SB494 "[e]xcept as otherwise provided in subsections 5, 6 and 7, the Authority 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 [439.597](#), inclusive, and any other regulations adopted pursuant thereto.”

Per [Assembly Bill 7](#) approved through the 2023 Nevada Legislature, the following dates for compliance are as follows:

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. Persons and entities subject to the provisions of subsection 4 of NRS 439.589, as amended by section 1.08 of this act, are not required to comply with those provisions until July 1, 2025.
3. 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.

Per [NRS 439.589\(6\)](#), and Section 157 of SB494, “[a] health care provider may apply to the Authority 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 Authority 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. (Emphasis added.)”

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.

Application:

Pursuant to NRS 439.589(6) and Section 157 of SB494, a health care provider may apply for a waiver from the requirements of NRS.439.589 by submitting an application to the Authority as described herein. If the application is approved, the waiver is valid until the applicant’s next provider license renewal cycle as

determined by the applicant's regulatory licensing board or agency (typically biennially), at which time the provider must submit a new application to obtain a renewal of the waiver from the Authority.

To apply for a waiver of NRS 439.589, an applicant must:

1. Complete all fields of the Application form on the Provider Waiver Application . If a field does not apply, list "N/A".
2. Complete the Attestation form and obtain all required notarized signatures.
3. Return completed, signed application in full by scanning the documents and emailing them to: communityandprovider@nvha.nv.gov.

Once your application has been received by the Authority, you will be notified of receipt through the original contact method provided. Upon review of a provider's eligibility for the waiver, all applicants will be notified of the decision in writing via email. Please keep copies of all related correspondence for future reference. 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 provider compliance deadline.

Appeal Process:

There is no appeal process for this waiver program. If your waiver application is denied, it is your responsibility to ensure compliance with State law pursuant to [NRS 439.589](#) and resulting regulations (regulations [linked here](#) for reference; not yet codified in Nevada Administrative Code (NAC) at time of this writing), by the timeline given for your applicable provider type as legislatively approved through Assembly Bill 7 (2023), Section 2.8, listed again for reference as follows:

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. Persons and entities subject to the provisions of subsection 4 of NRS 439.589, as amended by section 1.08 of this act, are not required to comply with those provisions until July 1, 2025.
3. 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.

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.

Additionally, “employee” is defined in Nevada Revised Statute (NRS):

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.

Consequences for noncompliance include corrective action and/or imposition of an administrative penalty enforced by the licensing or certification authority.