

ASSEMBLY BILL NO. 366—ASSEMBLYWOMAN TOLLES

MARCH 22, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing mental health records. (BDR 54-456)

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 mental health; exempting recordings of certain training activities from requirements concerning the retention, maintenance and disclosure of health care records; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law imposes various requirements concerning the retention,
2 maintenance and disclosure of health care records, including the patient or client
3 records of a psychologist, marriage and family therapist, clinical professional
4 counselor, social worker, independent social worker, clinical social worker, clinical
5 alcohol and drug counselor, alcohol and drug counselor or problem gambling
6 counselor. (NRS 629.051-629.069) This bill provides that a program of education
7 for such mental health professionals approved by the applicable licensing board, a
8 mental health professional or a person receiving training for mental health
9 professionals is not required to retain a recording of the provision of services by
10 such a mental health professional to a patient if: (1) the recording is used for a
11 training activity; (2) the patient has provided informed consent to the use of the
12 recording in the training activity; and (3) discarding the recording does not result in
13 the maintenance of incomplete patient records.

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

1 **Section 1.** NRS 629.021 is hereby amended to read as follows:
2 629.021 “Health care records” means any reports, notes,
3 orders, photographs, X-rays or other recorded data or information
4 whether maintained in written, electronic or other form which is



1 received or produced by a provider of health care, or any person
2 employed by a provider of health care, and contains information
3 relating to the medical history, examination, diagnosis or treatment
4 of the patient. *The term does not include a recording used for a*
5 *training activity by a program of education for mental health*
6 *professionals that is not required to be retained pursuant to*
7 *section 2, 3, 4 or 5 of this act.*

8 **Sec. 2.** Chapter 641 of NRS is hereby amended by adding
9 thereto a new section to read as follows:

10 *1. A program of education for mental health professionals*
11 *approved by the Board, a mental health professional or a person*
12 *receiving training for mental health professionals is not required*
13 *to retain a recording of the provision of mental health services by*
14 *a psychologist to a patient if:*

15 *(a) The recording is used for a training activity that is part of a*
16 *program of education for mental health professionals approved by*
17 *the Board;*

18 *(b) The patient has provided informed consent to the use of the*
19 *recording in the training activity; and*

20 *(c) Discarding the recording does not result in noncompliance*
21 *with the obligations described in subsection 2.*

22 *2. The provisions of this section do not abrogate, alter or*
23 *otherwise affect the obligation of a psychologist to retain records*
24 *concerning the mental health services that he or she provides to*
25 *patients in accordance with NRS 629.051 to 629.069, inclusive.*

26 *3. As used in this section, "mental health professional"*
27 *means a psychologist, marriage and family therapist, clinical*
28 *professional counselor, social worker, independent social worker,*
29 *clinical social worker, clinical alcohol and drug counselor,*
30 *alcohol and drug counselor or problem gambling counselor.*

31 **Sec. 3.** Chapter 641A of NRS is hereby amended by adding
32 thereto a new section to read as follows:

33 *1. A program of education for mental health professionals*
34 *approved by the Board, a mental health professional or a person*
35 *receiving training for mental health professionals is not required*
36 *to retain a recording of the provision of mental health services by*
37 *a marriage and family therapist or clinical professional counselor*
38 *to a client if:*

39 *(a) The recording is used for a training activity that is part of a*
40 *program of education for mental health professionals approved by*
41 *the Board;*

42 *(b) The client has provided informed consent to the use of the*
43 *recording in the training activity; and*

44 *(c) Discarding the recording does not result in noncompliance*
45 *with the obligations described in subsection 2.*



1 2. *The provisions of this section do not abrogate, alter or*
2 *otherwise affect the obligation of a marriage and family therapist*
3 *or clinical professional counselor to retain records concerning the*
4 *mental health services that he or she provides to clients in*
5 *accordance with NRS 629.051 to 629.069, inclusive.*

6 3. *As used in this section, "mental health professional"*
7 *means a psychologist, marriage and family therapist, clinical*
8 *professional counselor, social worker, independent social worker,*
9 *clinical social worker, clinical alcohol and drug counselor,*
10 *alcohol and drug counselor or problem gambling counselor.*

11 **Sec. 4.** Chapter 641B of NRS is hereby amended by adding
12 thereto a new section to read as follows:

13 1. *A program of education for mental health professionals*
14 *approved by the Board, a mental health professional or a person*
15 *receiving training for mental health professionals is not required*
16 *to retain a recording of the provision of mental health services by*
17 *a social worker, independent social worker or clinical social*
18 *worker to a client if:*

19 (a) *The recording is used for a training activity that is part of a*
20 *program of education for mental health professionals approved by*
21 *the Board;*

22 (b) *The client has provided informed consent to the use of the*
23 *recording in the training activity; and*

24 (c) *Discarding the recording does not result in noncompliance*
25 *with the obligations described in subsection 2.*

26 2. *The provisions of this section do not abrogate, alter or*
27 *otherwise affect the obligation of a social worker, independent*
28 *social worker or clinical social worker to retain records*
29 *concerning the mental health services that he or she provides to*
30 *clients in accordance with NRS 629.051 to 629.069, inclusive.*

31 3. *As used in this section, "mental health professional"*
32 *means a psychologist, marriage and family therapist, clinical*
33 *professional counselor, social worker, independent social worker,*
34 *clinical social worker, clinical alcohol and drug counselor,*
35 *alcohol and drug counselor or problem gambling counselor.*

36 **Sec. 5.** Chapter 641C of NRS is hereby amended by adding
37 thereto a new section to read as follows:

38 1. *A program of education for mental health professionals*
39 *approved by the Board, a mental health professional or a person*
40 *receiving training for mental health professionals is not required*
41 *to retain a recording of the provision of mental health services by*
42 *a clinical alcohol and drug counselor, alcohol and drug counselor*
43 *or problem gambling counselor to a client if:*



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

4 (b) *The client has provided informed consent to the use of the*
5 *recording in the training activity; and*

6 (c) *Discarding the recording does not result in noncompliance*
7 *with the obligations described in subsection 2.*

8 2. *The provisions of this section do not abrogate, alter or*
9 *otherwise affect the obligation of a clinical alcohol and drug*
10 *counselor, alcohol and drug counselor or problem gambling*
11 *counselor to retain records concerning the mental health services*
12 *that he or she provides to clients in accordance with NRS 629.051*
13 *to 629.069, inclusive.*

14 3. *As used in this section, “mental health professional”*
15 *means a psychologist, marriage and family therapist, clinical*
16 *professional counselor, social worker, independent social worker,*
17 *clinical social worker, clinical alcohol and drug counselor,*
18 *alcohol and drug counselor or problem gambling counselor.*

19 **Sec. 6.** This act becomes effective on July 1, 2021.

