



December 21, 2022

Malinda Southard, Executive Director
Patient Protection Commission
Nevada Department of Health and Human Services
400 West King Street, Suite 300
Carson City, NV 89703
ppcinfo@dhhs.nv.gov

RE: Letter Regarding the First Draft Baseline of the Patient Health Records Plan as Required by NRS

Dear Director Southard and Members of the Patient Protection Commission:

The Nevada Association of Health Plans (the “NvAHP” or “Association”) is a statewide trade association representing [ten member companies](#) who provide commercial health insurance and government programs to Nevadans. Our mission is to ensure the growth and development of a high-quality and affordable health care delivery system throughout the state.

The NvAHP appreciates the opportunity to provide comments on today’s agenda, specifically agenda item 8 - Recommendations and Possible Approval from the Commission for the final 2022 Inaugural Patient Health Records Plan (as required by NRS 439.918.1.(c)). According to the mandate, the focus is intended on 1) increasing patient access to their medical records; and 2) providing for the interoperability of medical records between health care providers.

The NvAHP is concerned that the document conflates what the Centers for Medicare & Medicaid Services (CMS) is doing at the federal level to ensure greater patient access to records and interoperability, with health cost reporting at the state level. These two topics do not naturally dovetail, which is concerning. The NvAHP provides the following recommendations to the plan:

- **Focus on Patient Data Access and Protection**
 - Currently, there are inconsistencies in how consumer health data is treated depending on which entity holds the data. HIPAA-covered entities follow detailed privacy and security provisions to protect data, including the use of the minimum necessary data standard and specific data protection steps. HIPAA-covered entities also follow breach notification and data use requirements and provide detailed information to our members in our Notice of Privacy Practices. However, health data is not always under the umbrella protection of HIPAA.
 - Once patient information is released to non-HIPAA covered entities, an app or device is only required to offer its users the protections set forward in self-determined privacy policies. While consumer protections for unfair and deceptive practices, harms, or privacy breaches are regulated by the Federal Trade Commission (FTC), and states may have provisions regarding consumer data and privacy rights, these actions are not able to prevent harms such as inappropriate data sharing.
 - Recommendation: We encourage the commission to work with both state and federal entities, such as HHS, to research and develop concepts for informing consumers about the differences in how their sensitive health information may be treated and handled across different devices, apps, and sectors, and how to mitigate risks.

- **We Recommend Decoupling State Data Request in Draft as that Requires Separate Considerations and Developments.**
 - Recognizing that data sharing entities can cost millions of dollars for states and health plans to establish and operate, states should have a clear understanding of what they are attempting to accomplish with data reporting requirements and be able to define its scope.
 - Recommendation: The state should continue to collaborate with stakeholders to establish clear missions, realistic timelines, and ensure data collection is legally permissible.

We appreciate the opportunity to provide comments and look forward to answering any questions you may have.

Sincerely,

Helen A. Foley
Legislative Advocate
Nevada Association of Health Plans