

ASSEMBLY BILL NO. 56—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED DECEMBER 15, 2010

Referred to Committee on Judiciary

SUMMARY—Grants subpoena power to the Attorney General, acting through the Medicaid Fraud Control Unit, to obtain certain documents, records or materials. (BDR 18-119)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. 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 the Office of the Attorney General; authorizing the Attorney General, acting through the Medicaid Fraud Control Unit, to issue a subpoena to obtain certain documents, records or materials; authorizing the Attorney General to recover and retain certain costs and expenses that are incurred pursuant to an investigation or prosecution by the Unit; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law establishes the Medicaid Fraud Control Unit within the Office of  
2 the Attorney General as the agency responsible for the investigation and  
3 prosecution of violations or offenses relating to the State Plan for Medicaid. (NRS  
4 228.410) **Section 2** of this bill authorizes the Attorney General to take appropriate  
5 legal action to recover any reasonable costs or expenses that are incurred pursuant  
6 to an investigation or prosecution by the Unit. **Section 2** further authorizes the  
7 Attorney General to retain a certain amount of the costs and expenses that are  
8 recovered, and requires the Attorney General to place any amount recovered in  
9 excess of that which the Attorney General is authorized to retain in the State  
10 General Fund for the State Plan for Medicaid.

11 **Section 1** of this bill authorizes the Attorney General, acting through the chief  
12 executive of the Medicaid Fraud Control Unit, to issue a subpoena to obtain certain  
13 documents, records or materials relevant to an investigation or prosecution by the



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14 Unit in a civil action to recover the reasonable costs or expenses incurred pursuant  
15 to the investigation or prosecution. Additionally, a person who willfully fails or  
16 refuses to comply with such a subpoena is guilty of a misdemeanor.

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

1 **Section 1.** Chapter 228 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 *1. In carrying out the duties and responsibilities under NRS*  
4 *228.410, the Attorney General, acting through the chief executive*  
5 *of the Medicaid Fraud Control Unit or his or her designee, may*  
6 *issue a subpoena for documents, records or materials.*

7 *2. The Attorney General may use any documents, records or*  
8 *materials produced pursuant to a subpoena issued under this*  
9 *section in the course of a civil action brought pursuant to*  
10 *NRS 228.410.*

11 *3. Any person who willfully fails or refuses to comply with a*  
12 *subpoena issued pursuant to this section is guilty of a*  
13 *misdemeanor.*

14 *4. A subpoena issued pursuant to this section must include a*  
15 *copy of the provisions of subsections 1, 2 and 3.*

16 **Sec. 2.** NRS 228.410 is hereby amended to read as follows:

17 228.410 1. The Attorney General has primary jurisdiction to  
18 investigate and prosecute violations of NRS 422.540 to 422.570,  
19 inclusive, and any fraud in the administration of the Plan or in the  
20 provision of medical assistance pursuant to the Plan. The provisions  
21 of this section notwithstanding, the Department of Health and  
22 Human Services and the Division of Health Care Financing and  
23 Policy of the Department of Health and Human Services shall  
24 enforce the Plan and any regulations adopted pursuant thereto.

25 2. For this purpose, the Attorney General shall establish within  
26 his or her office the Medicaid Fraud Control Unit. The Unit must  
27 consist of a group of qualified persons, including, without  
28 limitation, an attorney, an auditor and an investigator who, to the  
29 extent practicable, have expertise in nursing, medicine and the  
30 administration of medical facilities.

31 3. The Attorney General, acting through the Medicaid Fraud  
32 Control Unit:

33 (a) Is the single state agency responsible for the investigation  
34 and prosecution of violations of NRS 422.540 to 422.570, inclusive;

35 (b) *May conduct any investigation or prosecution authorized*  
36 *pursuant to 42 U.S.C. § 1396b(q);*



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1 (c) Shall review reports of abuse or criminal neglect of patients  
2 in medical facilities which receive payments under the Plan and,  
3 when appropriate, investigate and prosecute the persons responsible;

4 ~~[(e)]~~ (d) May review and investigate reports of misappropriation  
5 of money from the personal resources of patients in medical  
6 facilities that receive payments under the Plan and, when  
7 appropriate, shall prosecute the persons responsible;

8 ~~[(d)]~~ (e) Shall cooperate with federal investigators and  
9 prosecutors in coordinating state and federal investigations and  
10 prosecutions involving fraud in the provision or administration of  
11 medical assistance pursuant to the Plan, and provide those federal  
12 officers with any information in his or her possession regarding such  
13 an investigation or prosecution; and

14 ~~[(e)]~~ (f) Shall protect the privacy of patients and establish  
15 procedures to prevent the misuse of information obtained in carrying  
16 out the provisions of this section ~~[(f)]~~ and section 1 of this act.

17 4. When acting pursuant to *this section or NRS 228.175*, ~~[(e)]~~  
18 ~~this section,~~ the Attorney General may commence an investigation  
19 and file a criminal action without leave of court, and has exclusive  
20 charge of the conduct of the prosecution.

21 5. *The Attorney General may, by appropriate legal action,*  
22 *recover any reasonable costs or expenses incurred in conducting*  
23 *an investigation or prosecution pursuant to this section or section*  
24 *1 of this act. The Attorney General may retain the costs and*  
25 *expenses recovered pursuant to this subsection up to an amount*  
26 *not exceeding, in the aggregate, three times the amount of any*  
27 *money paid by this State which matches federal grant money for*  
28 *the Medicaid Fraud Control Unit. Costs and expenses recovered*  
29 *by the Attorney General in excess of the amount retained by the*  
30 *Attorney General must be deposited in the State General Fund for*  
31 *credit to the appropriate account for the Plan.*

32 6. As used in this section:

33 (a) "Medical facility" has the meaning ascribed to it in  
34 NRS 449.0151.

35 (b) "Plan" means the State Plan for Medicaid established  
36 pursuant to NRS 422.271.

37 **Sec. 3.** This act becomes effective on July 1, 2011.



