

ASSEMBLY BILL NO. 146—COMMITTEE ON
HEALTH AND HUMAN SERVICES

FEBRUARY 14, 2011

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to the Office for
Consumer Health Assistance. (BDR 18-179)

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 the Office for Consumer Health Assistance;
expanding the definition of “consumer” to include more
situations in which the Office may render assistance;
expanding the authority of the Director of the Office to
adopt regulations; authorizing the Director to appoint a
designee to mediate, arbitrate or resolve by alternative
means certain disputes between patients and hospitals;
and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law establishes the Office for Consumer Health Assistance in the
- 2 Office of the Governor to provide assistance to consumers in obtaining information
- 3 or other assistance relating to a variety of medical issues. (NRS 223.550, 223.560)
- 4 **Section 1** of this bill adds to the definition of “consumer” a person who is in need
- 5 of information or other assistance regarding his or her health care services or
- 6 disputes in billing related to his or her medical claims.
- 7 Existing law authorizes the Director of the Office to adopt regulations relating
- 8 to the duties the Director is required to perform and the annual report the Director
- 9 must file with the Governor and the Director of the Legislative Counsel Bureau.
- 10 (NRS 223.570) **Section 2** of this bill expands this regulatory authority to authorize
- 11 the Director to adopt regulations to carry out any provisions relating to the Office,
- 12 which would allow, for example, the adoption of regulations addressing procedures
- 13 for hearing disputes between patients and hospitals.
- 14 Existing law authorizes the Director to hear, mediate, arbitrate or resolve by
- 15 alternative means of dispute resolution disputes between patients and hospitals.
- 16 (NRS 223.575) **Section 4** of this bill authorizes the Director to appoint a designee
- 17 to hear, mediate, arbitrate or resolve such disputes in his or her place.



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

- 1 **Section 1.** NRS 223.510 is hereby amended to read as follows:
2 223.510 “Consumer” means a natural person who:
3 1. Has or is in need of coverage under a health care plan;
4 2. Is in need of information or other assistance regarding a
5 prescription drug program; ~~{or}~~
6 3. May need information concerning purchasing prescription
7 drugs from Canadian pharmacies ~~{}~~; *or*
8 4. *Is in need of information or other assistance regarding his*
9 *or her health care services or disputes in billing related to his or*
10 *her medical claims.*
11 **Sec. 2.** NRS 223.560 is hereby amended to read as follows:
12 223.560 **1.** The Director shall:
13 ~~{1}~~ **(a)** Respond to written and telephonic inquiries received
14 from consumers and injured employees regarding concerns and
15 problems related to health care and workers’ compensation;
16 ~~{2}~~ **(b)** Assist consumers and injured employees in
17 understanding their rights and responsibilities under health care
18 plans, including, without limitation, the Public Employees’ Benefits
19 Program, and policies of industrial insurance;
20 ~~{3}~~ **(c)** Identify and investigate complaints of consumers and
21 injured employees regarding their health care plans, including,
22 without limitation, the Public Employees’ Benefits Program, and
23 policies of industrial insurance and assist those consumers and
24 injured employees to resolve their complaints, including, without
25 limitation:
26 ~~{a}~~ **(1)** Referring consumers and injured employees to the
27 appropriate agency, department or other entity that is responsible for
28 addressing the specific complaint of the consumer or injured
29 employee; and
30 ~~{b}~~ **(2)** Providing counseling and assistance to consumers and
31 injured employees concerning health care plans, including, without
32 limitation, the Public Employees’ Benefits Program, and policies of
33 industrial insurance;
34 ~~{4}~~ **(d)** Provide information to consumers and injured
35 employees concerning health care plans, including, without
36 limitation, the Public Employees’ Benefits Program, and policies of
37 industrial insurance in this State;
38 ~~{5}~~ **(e)** Establish and maintain a system to collect and maintain
39 information pertaining to the written and telephonic inquiries
40 received by the Office for Consumer Health Assistance;



1 ~~[6-]~~ (f) Take such actions as are necessary to ensure public
2 awareness of the existence and purpose of the services provided by
3 the Director pursuant to this section;

4 ~~[7-]~~ (g) In appropriate cases and pursuant to the direction of the
5 Governor, refer a complaint or the results of an investigation to the
6 Attorney General for further action;

7 ~~[8-]~~ (h) Provide information to and applications for prescription
8 drug programs for consumers without insurance coverage for
9 prescription drugs or pharmaceutical services;

10 ~~[9-]~~ (i) Establish and maintain an Internet website which
11 includes:

12 ~~[(a)]~~ (1) Information concerning purchasing prescription drugs
13 from Canadian pharmacies that have been recommended by the
14 State Board of Pharmacy for inclusion on the Internet website
15 pursuant to subsection 4 of NRS 639.2328;

16 ~~[(b)]~~ (2) Links to websites of Canadian pharmacies which have
17 been recommended by the State Board of Pharmacy for inclusion on
18 the Internet website pursuant to subsection 4 of NRS 639.2328; and

19 ~~[(c)]~~ (3) A link to the website established and maintained
20 pursuant to NRS 439A.270 which provides information to the
21 general public concerning the charges imposed and the quality of
22 the services provided by the hospitals and surgical centers for
23 ambulatory patients in this State; and

24 ~~[(d)]~~ (j) Assist consumers with filing complaints against health
25 care facilities and health care professionals. As used in this
26 subsection, "health care facility" has the meaning ascribed to it in
27 NRS 162A.740.

28 **2. *The Director may adopt regulations to carry out the***
29 ***provisions of NRS 223.500 to 223.580, inclusive.***

30 **Sec. 3.** NRS 223.570 is hereby amended to read as follows:

31 223.570 1. The Director, within the limits of available
32 money:

33 (a) Shall, to carry out the provisions of this section and NRS
34 223.560 and 223.580, employ at least two persons who have
35 experience in the field of workers' compensation, including, without
36 limitation, persons who have experience in administering claims or
37 programs related to policies of industrial insurance, representing
38 employees in contested claims relating to policies of industrial
39 insurance or advocating for the rights of injured employees; and

40 (b) May, in addition to the persons required to be employed
41 pursuant to paragraph (a), employ:

42 (1) Such persons in the unclassified service of the State as
43 the Director determines to be necessary to carry out the provisions
44 of this section and NRS 223.560 and 223.580, including, without



1 limitation, a provider of health care, as that term is defined in
2 NRS 449.581.

3 (2) Such additional personnel as may be required to carry out
4 the provisions of this section and NRS 223.560 and 223.580, who
5 must be in the classified service of the State.

6 ➤ A person employed pursuant to the authority set forth in this
7 subsection must be qualified by training and experience to perform
8 the duties for which the Director employs that person.

9 2. The Director may:

10 (a) To the extent not otherwise prohibited by law, obtain such
11 information from consumers, injured employees, health care plans,
12 prescription drug programs and policies of industrial insurance as
13 the Director determines to be necessary to carry out the provisions
14 of this section and NRS 223.560 and 223.580.

15 (b) ~~Adopt such regulations as the Director determines to be~~
16 ~~necessary to carry out the provisions of this section and NRS~~
17 ~~223.560 and 223.580.~~

18 ~~(e)}~~ Apply for any available grants, accept any gifts, grants or
19 donations and use any such gifts, grants or donations to aid the
20 Office for Consumer Health Assistance in carrying out its duties
21 pursuant to ~~subsections 8 and 9~~ *paragraphs (h) and (i) of*
22 *subsection 1* of NRS 223.560.

23 3. The Director and the Director's employees shall not have
24 any conflict of interest relating to the performance of their duties
25 pursuant to this section and NRS 223.560 and 223.580. For the
26 purposes of this subsection, a conflict of interest shall be deemed to
27 exist if the Director or employee, or any person affiliated with the
28 Director or employee:

29 (a) Has direct involvement in the licensing, certification or
30 accreditation of a health care facility, insurer or provider of health
31 care;

32 (b) Has a direct ownership interest or investment interest in a
33 health care facility, insurer or provider of health care;

34 (c) Is employed by, or participating in, the management of a
35 health care facility, insurer or provider of health care; or

36 (d) Receives or has the right to receive, directly or indirectly,
37 remuneration pursuant to any arrangement for compensation with a
38 health care facility, insurer or provider of health care.

39 **Sec. 4.** NRS 223.575 is hereby amended to read as follows:

40 223.575 1. The Bureau for Hospital Patients is hereby created
41 within the Office for Consumer Health Assistance in the Office of
42 the Governor.

43 2. The Director:

44 (a) Is responsible for the operation of the Bureau, which must be
45 easily accessible to the clientele of the Bureau.



1 (b) Shall appoint and supervise such additional employees as are
2 necessary to carry out the duties of the Bureau. The employees of
3 the Bureau are in the unclassified service of the State.

4 (c) On or before February 1 of each year, shall submit a written
5 report to the Governor, and to the Director of the Legislative
6 Counsel Bureau concerning the activities of the Bureau for Hospital
7 Patients for transmittal to the appropriate committee or committees
8 of the Legislature. The report must include, without limitation, the
9 number of complaints received by the Bureau, the number and type
10 of disputes heard, mediated, arbitrated or resolved through
11 alternative means of dispute resolution by the Director and the
12 outcome of the mediation, arbitration or alternative means of dispute
13 resolution.

14 3. The Director *or the Director's designee* may, upon request
15 made by either party, hear, mediate, arbitrate or resolve by
16 alternative means of dispute resolution disputes between patients
17 and hospitals. The Director *or the Director's designee* may decline
18 to hear a case that in the Director's opinion is trivial, without merit
19 or beyond the scope of his or her jurisdiction. The Director *or the*
20 *Director's designee* may hear, mediate, arbitrate or resolve through
21 alternative means of dispute resolution disputes regarding:

22 (a) The accuracy or amount of charges billed to a patient;

23 (b) The reasonableness of arrangements made *for a patient to*
24 *pay any bill for medical services, including, without limitation,*
25 *arrangements to pay hospital bills made* pursuant to paragraph (c)
26 of subsection 1 of NRS 439B.260; and

27 (c) Such other matters related to the charges for care provided to
28 a patient as the Director *or the Director's designee* determines
29 appropriate for arbitration, mediation or other alternative means of
30 dispute resolution.

31 *↳ The Director's designee must be an employee of the State and,*
32 *except for the purposes of this subsection, must not be employed*
33 *by, or otherwise associated with, the Bureau or the Office for*
34 *Consumer Health Assistance.*

35 4. The decision of the Director *or the Director's designee* is a
36 final decision for the purpose of judicial review.

37 5. Each hospital, other than federal and state hospitals, with 49
38 or more licensed or approved hospital beds shall pay an annual
39 assessment for the support of the Bureau. On or before July 15 of
40 each year, the Director shall notify each hospital of its assessment
41 for the fiscal year. Payment of the assessment is due on or before
42 September 15. Late payments bear interest at the rate of 1 percent
43 per month or fraction thereof.



1 6. The total amount assessed pursuant to subsection 5 for a
2 fiscal year must not be more than \$100,000 adjusted by the
3 percentage change between January 1, 1991, and January 1 of the
4 year in which the fees are assessed, in the Consumer Price Index
5 (All Items) published by the United States Department of Labor.

6 7. The total amount assessed must be divided by the total
7 number of patient days of care provided in the previous calendar
8 year by the hospitals subject to the assessment. For each hospital,
9 the assessment must be the result of this calculation multiplied by its
10 number of patient days of care for the preceding calendar year.

11 **Sec. 5.** NRS 223.580 is hereby amended to read as follows:

12 223.580 On or before February 1 of each year, the Director
13 shall submit a written report to the Governor, and to the Director of
14 the Legislative Counsel Bureau for transmittal to the appropriate
15 committee or committees of the Legislature. The report must
16 include, without limitation:

17 1. A statement setting forth the number and geographic origin
18 of the written and telephonic inquiries received by the Office for
19 Consumer Health Assistance and the issues to which those inquiries
20 were related;

21 2. A statement setting forth the type of assistance provided to
22 each consumer and injured employee who sought assistance from
23 the Director, including, without limitation, the number of referrals
24 made to the Attorney General pursuant to *paragraph (g) of*
25 subsection ~~7~~ *1* of NRS 223.560;

26 3. A statement setting forth the disposition of each inquiry and
27 complaint received by the Director; and

28 4. A statement setting forth the number of external reviews
29 conducted by external review organizations pursuant to NRS
30 695G.241 to 695G.310, inclusive, and the disposition of each of
31 those reviews as reported pursuant to NRS 695G.310.

32 **Sec. 6.** NRS 453.3639 is hereby amended to read as follows:

33 453.3639 1. Except as otherwise provided in subsection 3, a
34 person who is located within or outside this State shall not, via the
35 Internet, fill or refill a prescription drug if:

36 (a) The person has reasonable cause to believe that the
37 prescription is being filled or refilled for a person in this State; and

38 (b) The prescription drug has not been lawfully imported into
39 the United States.

40 2. Except as otherwise provided in subsection 3, a person who
41 is located within or outside this State shall not, via the Internet, fill
42 or refill a prescription drug if:

43 (a) The person has reasonable cause to believe that the
44 prescription is being filled or refilled for a person in this State; and



1 (b) The prescription was not delivered to the person in
2 accordance with all applicable state and federal laws, regulations
3 and standards.

4 3. The provisions of this section do not prohibit a Canadian
5 pharmacy which is licensed by the Board and which has been
6 recommended by the Board pursuant to subsection 4 of NRS
7 639.2328 for inclusion on the Internet website established and
8 maintained pursuant to *paragraph (i) of* subsection ~~¶~~ 1 of NRS
9 223.560 from providing prescription drugs through mail order
10 service to residents of Nevada in the manner set forth in NRS
11 639.2328 to 639.23286, inclusive.

12 4. A person shall not knowingly aid another person in any act
13 or transaction that violates any provision of this section.

14 5. Except as otherwise provided in subsection 6, a person who
15 violates any provision of this section is guilty of a category C felony
16 and shall be punished as provided in NRS 193.130.

17 6. A person who violates any provision of this section is guilty
18 of a category B felony and shall be punished by imprisonment in the
19 state prison for a minimum term of not less than 3 years and a
20 maximum term of not more than 15 years, and may be further
21 punished by a fine of not more than \$100,000, if the substance or
22 drug involved:

23 (a) Is classified in schedule I; or

24 (b) Proximately causes substantial bodily harm to or the death of
25 the intended recipient of the substance or drug or any other person.

26 7. The court shall not grant probation to or suspend the
27 sentence of a person punished pursuant to subsection 6.

28 8. A person may be prosecuted, convicted and punished for a
29 violation of this section whether or not the person is prosecuted,
30 convicted or punished for violating any other specific statute based
31 upon the same act or transaction.

32 **Sec. 7.** NRS 639.230 is hereby amended to read as follows:

33 639.230 1. A person operating a business in this State shall
34 not use the letters "Rx" or "RX" or the word "drug" or "drugs,"
35 "prescription" or "pharmacy," or similar words or words of similar
36 import, without first having secured a license from the Board.

37 2. Each license must be issued to a specific person and for a
38 specific location and is not transferable. The original license must be
39 displayed on the licensed premises as provided in NRS 639.150.
40 The original license and the fee required for reissuance of a license
41 must be submitted to the Board before the reissuance of the license.

42 3. If the owner of a pharmacy is a partnership or corporation,
43 any change of partners or corporate officers must be reported to the
44 Board at such a time as is required by a regulation of the Board.



1 4. Except as otherwise provided in subsection 6, in addition to
2 the requirements for renewal set forth in NRS 639.180, every person
3 holding a license to operate a pharmacy must satisfy the Board that
4 the pharmacy is conducted according to law.

5 5. Any violation of any of the provisions of this chapter by a
6 managing pharmacist or by personnel of the pharmacy under the
7 supervision of the managing pharmacist is cause for the suspension
8 or revocation of the license of the pharmacy by the Board.

9 6. The provisions of this section do not prohibit a Canadian
10 pharmacy which is licensed by the Board and which has been
11 recommended by the Board pursuant to subsection 4 of NRS
12 639.2328 for inclusion on the Internet website established and
13 maintained pursuant to *paragraph (i) of* subsection ~~¶~~ *1* of NRS
14 223.560 from providing prescription drugs through mail order
15 service to residents of Nevada in the manner set forth in NRS
16 639.2328 to 639.23286, inclusive.

17 **Sec. 8.** NRS 639.2328 is hereby amended to read as follows:

18 639.2328 1. Every pharmacy located outside Nevada that
19 provides mail order service to or solicits or advertises for orders for
20 drugs available with a prescription from a resident of Nevada must
21 be licensed by the Board.

22 2. To be licensed or to renew a license, such a pharmacy must:

23 (a) Be licensed as a pharmacy, or the equivalent, by the state or
24 country in which its dispensing facilities are located.

25 (b) Comply with all applicable federal laws, regulations and
26 standards.

27 (c) Submit an application in the form furnished by the Board.

28 (d) Provide the following information to the Board:

29 (1) The name and address of the owner;

30 (2) The location of the pharmacy;

31 (3) The name of the pharmacist who is the managing
32 pharmacist; and

33 (4) Any other information the Board deems necessary.

34 (e) Pay the fee required by regulation of the Board.

35 (f) Submit evidence satisfactory to the Board that the facility,
36 records and operation of the pharmacy comply with the laws and
37 regulations of the state or country in which the pharmacy is located.

38 (g) Submit certification satisfactory to the Board that the
39 pharmacy complies with all lawful requests and directions from the
40 regulatory board or licensing authority of the state or country in
41 which the pharmacy is located relating to the shipment, mailing or
42 delivery of drugs.

43 (h) Be certified by the Board pursuant to NRS 639.23288 if the
44 pharmacy operates an Internet pharmacy.



1 3. In addition to the requirements of subsection 2, the Board
2 may require such a pharmacy to be inspected by the Board.

3 4. The Board shall notify the Office for Consumer Health
4 Assistance each time the Board licenses a Canadian pharmacy
5 pursuant to this section and recommend that the Office for
6 Consumer Health Assistance include each such pharmacy on the
7 Internet website established and maintained pursuant to *paragraph*
8 *(i)* of subsection ~~9~~ *I* of NRS 223.560.

9 **Sec. 9.** NRS 639.23284 is hereby amended to read as follows:

10 639.23284 1. Every pharmacy located outside Nevada that
11 provides mail order service to a resident of Nevada:

12 (a) Shall report to the Board any change of information that
13 appears on its license and pay the fee required by regulation of the
14 Board.

15 (b) Shall make available for inspection all pertinent records,
16 reports, documents or other material or information required by the
17 Board.

18 (c) As required by the Board, must be inspected by the Board or:

19 (1) The regulatory board or licensing authority of the state or
20 country in which the pharmacy is located; or

21 (2) The Drug Enforcement Administration.

22 (d) As required by the Board, shall provide the following
23 information concerning each prescription for a drug that is shipped,
24 mailed or delivered to a resident of Nevada:

25 (1) The name of the patient;

26 (2) The name of the prescriber;

27 (3) The number of the prescription;

28 (4) The date of the prescription;

29 (5) The name of the drug;

30 (6) The symptom or purpose for which the drug is
31 prescribed, if requested by the patient pursuant to NRS 639.2352;
32 and

33 (7) The strength and quantity of the dose.

34 2. In addition to complying with the requirements of subsection
35 1, every Canadian pharmacy which is licensed by the Board and
36 which has been recommended by the Board pursuant to subsection 4
37 of NRS 639.2328 for inclusion on the Internet website established
38 and maintained pursuant to *paragraph (i)* of subsection ~~9~~ *I* of
39 NRS 223.560 that provides mail order service to a resident of
40 Nevada shall not sell, distribute or furnish to a resident of this State:

41 (a) A controlled substance;

42 (b) A prescription drug that has not been approved by the
43 federal Food and Drug Administration;

44 (c) A generic prescription drug that has not been approved by
45 the federal Food and Drug Administration;



- 1 (d) A prescription drug for which the federal Food and Drug
2 Administration has withdrawn or suspended its approval; or
3 (e) A quantity of prescription drugs at one time that includes
4 more drugs than are prescribed to the patient as a 3-month supply of
5 the drugs.
6 **Sec. 10.** This act becomes effective on July 1, 2011.

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