

ASSEMBLY BILL NO. 436—COMMITTEE
ON COMMERCE AND LABOR

MARCH 26, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to vision insurance.
(BDR 57-808)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 health care; prohibiting an insurer from entering into a contract with a provider of vision care that contains certain provisions; requiring an insurer to provide certain information to a provider of vision care before entering into a contract to include the provider in the network of the insurer; prescribing certain requirements concerning the advertising and marketing of vision coverage; authorizing the imposition of an administrative penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law prohibits certain unfair trade practices in the business of
2 insurance. (NRS 686A.010-686A.280) **Section 1** of this bill prohibits an insurer
3 from entering into a contract with a provider of vision care that places certain
4 limitations on coverage. **Section 1** also requires an insurer to provide to a provider
5 of vision care a list of the rates of reimbursement that the insurer provides for
6 covered vision care before entering into a contract to include the provider of vision
7 care in the network of the insurer. **Section 1** additionally: (1) requires an insurer to
8 disclose in any policy of vision insurance or related materials any ownership or
9 other pecuniary interest of the insurer in a manufacturer of goods covered by the
10 policy or in a provider of vision care; and (2) imposes certain restrictions on the
11 manner in which an insurer may advertise a policy of insurance that covers vision
12 care. **Sections 2 and 3** of this bill authorize the Commissioner of Insurance to
13 enforce the requirements of **section 1** in the same manner as other provisions
14 governing the trade practices of insurers. Specifically, **section 2** authorizes the
15 Commissioner to hold a hearing if he or she has cause to believe that a violation of
16 **section 1** has occurred. If the Commissioner finds after that hearing that a violation
17 has occurred and the insurer in violation knew or should have known of the



18 violation, **section 3** authorizes the Commissioner to impose an administrative
19 penalty or take action against the license of the insurer. **Sections 4-9** of this bill
20 provide that certain entities that provide vision coverage, including local
21 governments and the Public Employees' Benefits Program, are subject to the
22 provisions of **section 1**.

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

1 **Section 1.** Chapter 686A of NRS is hereby amended by
2 adding thereto a new section to read as follows:

3 *1. An insurer shall not enter into a contract with a provider*
4 *of vision care that conditions any rate of reimbursement for vision*
5 *care on the provider of vision care prescribing ophthalmic devices*
6 *or materials in which the insurer has an ownership or other*
7 *pecuniary interest or increases the rate of reimbursement if the*
8 *provider of vision care prescribes such ophthalmic devices or*
9 *materials.*

10 *2. Before entering into a contract with a provider of vision*
11 *care to include the provider of vision care in the network of an*
12 *insurer, the insurer must provide to the provider of vision care a*
13 *list of the rates of reimbursement for each service covered by the*
14 *contract.*

15 *3. An insurer shall disclose in any policy of insurance that*
16 *covers vision care or any description of benefits covered by such a*
17 *policy, whether written or electronic, any ownership or other*
18 *pecuniary interest of the insurer in a supplier of ophthalmic*
19 *devices or materials or a provider of vision care. The disclosure*
20 *must appear in a conspicuous and clear manner.*

21 *4. An insurer that does not provide reimbursement for*
22 *specific vision care shall not claim in any advertisement or other*
23 *material that the insurer covers that vision care or that such vision*
24 *care is available at a discount or with a copayment or coinsurance*
25 *in an amount that is in addition to the copayment or coinsurance*
26 *that a covered person is typically required to pay for covered*
27 *services.*

28 *5. As used in this section:*

29 *(a) "Provider of vision care" means a physician who provides*
30 *vision care or an optometrist.*

31 *(b) "Vision care" means:*

32 *(1) Routine ophthalmological evaluation of the eye,*
33 *including refraction.*

34 *(2) Ophthalmic devices or materials, including, without*
35 *limitation, lenses, frames, mountings or other specially fabricated*
36 *ophthalmic devices.*



1 ↳ *The term “vision care” does not include the initiation of*
2 *treatment or diagnosis pursuant to a program of medical care.*

3 **Sec. 2.** NRS 686A.160 is hereby amended to read as follows:

4 686A.160 If the Commissioner has cause to believe that any
5 person has been engaged or is engaging, in this state, in any unfair
6 method of competition or any unfair or deceptive act or practice
7 prohibited by NRS 686A.010 to 686A.310, inclusive, *and section 1*
8 *of this act* and that a proceeding by the Commissioner in respect
9 thereto would be in the interest of the public, the Commissioner may
10 issue and serve upon such person a statement of the charges and a
11 notice of the hearing to be held thereon. The statement of charges
12 and notice of hearing shall comply with the requirements of NRS
13 679B.320 and shall be served upon such person directly or by
14 certified or registered mail, return receipt requested.

15 **Sec. 3.** NRS 686A.183 is hereby amended to read as follows:

16 686A.183 1. After the hearing provided for in NRS
17 686A.160, the Commissioner shall issue an order on hearing
18 pursuant to NRS 679B.360. If the Commissioner determines that the
19 person charged has engaged in an unfair method of competition or
20 an unfair or deceptive act or practice in violation of NRS 686A.010
21 to 686A.310, inclusive, *and section 1 of this act*, the Commissioner
22 shall order the person to cease and desist from engaging in that
23 method of competition, act or practice, and may order one or both of
24 the following:

25 (a) If the person knew or reasonably should have known that he
26 or she was in violation of NRS 686A.010 to 686A.310, inclusive,
27 *and section 1 of this act*, payment of an administrative fine of not
28 more than \$5,000 for each act or violation, except that as to licensed
29 agents, brokers, solicitors and adjusters, the administrative fine must
30 not exceed \$500 for each act or violation.

31 (b) Suspension or revocation of the person’s license if the
32 person knew or reasonably should have known that he or she was in
33 violation of NRS 686A.010 to 686A.310, inclusive **H**, *and section*
34 *1 of this act.*

35 2. Until the expiration of the time allowed for taking an appeal,
36 pursuant to NRS 679B.370, if no petition for review has been filed
37 within that time, or, if a petition for review has been filed within that
38 time, until the official record in the proceeding has been filed with
39 the court, the Commissioner may, at any time, upon such notice and
40 in such manner as the Commissioner deems proper, modify or set
41 aside, in whole or in part, any order issued by him or her under this
42 section.

43 3. After the expiration of the time allowed for taking an appeal,
44 if no petition for review has been filed, the Commissioner may at
45 any time, after notice and opportunity for hearing, reopen and alter,



1 modify or set aside, in whole or in part, any order issued by him or
2 her under this section whenever in the opinion of the Commissioner
3 conditions of fact or of law have so changed as to require such
4 action or if the public interest so requires.

5 **Sec. 4.** NRS 686A.520 is hereby amended to read as follows:

6 686A.520 1. The provisions of NRS 683A.341, 683A.451,
7 683A.461 and 686A.010 to 686A.310, inclusive, *and section 1 of*
8 *this act* apply to companies.

9 2. For the purposes of subsection 1, unless the context requires
10 that a section apply only to insurers, any reference in those sections
11 to “insurer” must be replaced by a reference to “company.”

12 **Sec. 5.** NRS 695B.320 is hereby amended to read as follows:

13 695B.320 1. Nonprofit hospital and medical or dental service
14 corporations are subject to the provisions of this chapter, and to the
15 provisions of chapters 679A and 679B of NRS, NRS 686A.010 to
16 686A.315, inclusive, *and section 1 of this act*, 687B.010 to
17 687B.040, inclusive, 687B.070 to 687B.140, inclusive, 687B.150,
18 687B.160, 687B.180, 687B.200 to 687B.255, inclusive, 687B.270,
19 687B.310 to 687B.380, inclusive, 687B.410, 687B.420, 687B.430,
20 687B.500 and chapters 692B, 692C, 693A and 696B of NRS, to the
21 extent applicable and not in conflict with the express provisions of
22 this chapter.

23 2. For the purposes of this section and the provisions set forth
24 in subsection 1, a nonprofit hospital and medical or dental service
25 corporation is included in the meaning of the term “insurer.”

26 **Sec. 6.** NRS 695C.300 is hereby amended to read as follows:

27 695C.300 1. No health maintenance organization or
28 representative thereof may cause or knowingly permit the use of
29 advertising which is untrue or misleading, solicitation which is
30 untrue or misleading or any form of evidence of coverage which is
31 deceptive. For purposes of this chapter:

32 (a) A statement or item of information shall be deemed to be
33 untrue if it does not conform to fact in any respect which is or may
34 be significant to an enrollee of, or person considering enrollment in,
35 a health care plan.

36 (b) A statement or item of information shall be deemed to be
37 misleading, whether or not it may be literally untrue if, in the total
38 context in which such statement is made or such item of information
39 is communicated, such statement or item of information may be
40 reasonably understood by a reasonable person not possessing special
41 knowledge regarding health care coverage, as indicating any benefit
42 or advantage or the absence of any exclusion, limitation or
43 disadvantage of possible significance to an enrollee of, or person
44 considering enrollment in, a health care plan if such benefit or



1 advantage or absence of limitation, exclusion or disadvantage does
2 not in fact exist.

3 (c) An evidence of coverage shall be deemed to be deceptive if
4 the evidence of coverage taken as a whole, and with consideration
5 given to typography and format as well as language, shall be such as
6 to cause a reasonable person not possessing special knowledge
7 regarding health care plans and evidences of coverage therefor to
8 expect benefits, services, charges or other advantages which the
9 evidence of coverage does not provide or which the health care plan
10 issuing such evidence of coverage does not regularly make available
11 for enrollees covered under such evidence of coverage.

12 2. NRS 686A.010 to 686A.310, inclusive, *and section 1 of this*
13 *act* shall be construed to apply to health maintenance organizations,
14 health care plans and evidences of coverage except to the extent that
15 the nature of health maintenance organizations, health care plans
16 and evidences of coverage render the sections therein clearly
17 inappropriate.

18 3. An enrollee may not be cancelled or not renewed except for
19 the failure to pay the charge for such coverage or for cause as
20 determined in the master contract.

21 4. No health maintenance organization, unless licensed as an
22 insurer, may use in its name, contracts, or literature any of the words
23 "insurance," "casualty," "surety," "mutual" or any other words
24 descriptive of the insurance, casualty or surety business or
25 deceptively similar to the name or description of any insurance or
26 surety corporation doing business in this State.

27 5. No person not certificated under this chapter shall use in its
28 name, contracts or literature the phrase "health maintenance
29 organization" or the initials "HMO."

30 **Sec. 7.** NRS 695F.090 is hereby amended to read as follows:

31 695F.090 1. Prepaid limited health service organizations are
32 subject to the provisions of this chapter and to the following
33 provisions, to the extent reasonably applicable:

34 (a) NRS 687B.310 to 687B.420, inclusive, concerning
35 cancellation and nonrenewal of policies.

36 (b) NRS 687B.122 to 687B.128, inclusive, concerning
37 readability of policies.

38 (c) The requirements of NRS 679B.152.

39 (d) The fees imposed pursuant to NRS 449.465.

40 (e) NRS 686A.010 to 686A.310, inclusive, *and section 1 of this*
41 *act* concerning trade practices and frauds.

42 (f) The assessment imposed pursuant to NRS 679B.700.

43 (g) Chapter 683A of NRS.



1 (h) To the extent applicable, the provisions of NRS 689B.340 to
2 689B.580, inclusive, and chapter 689C of NRS relating to the
3 portability and availability of health insurance.

4 (i) NRS 689A.035, 689A.0463, 689A.410, 689A.413
5 and 689A.415.

6 (j) NRS 680B.025 to 680B.039, inclusive, concerning premium
7 tax, premium tax rate, annual report and estimated quarterly tax
8 payments. For the purposes of this subsection, unless the context
9 otherwise requires that a section apply only to insurers, any
10 reference in those sections to "insurer" must be replaced by a
11 reference to "prepaid limited health service organization."

12 (k) Chapter 692C of NRS, concerning holding companies.

13 (l) NRS 689A.637, concerning health centers.

14 2. For the purposes of this section and the provisions set forth
15 in subsection 1, a prepaid limited health service organization is
16 included in the meaning of the term "insurer."

17 **Sec. 8.** NRS 287.010 is hereby amended to read as follows:

18 287.010 1. The governing body of any county, school
19 district, municipal corporation, political subdivision, public
20 corporation or other local governmental agency of the State of
21 Nevada may:

22 (a) Adopt and carry into effect a system of group life, accident
23 or health insurance, or any combination thereof, for the benefit of its
24 officers and employees, and the dependents of officers and
25 employees who elect to accept the insurance and who, where
26 necessary, have authorized the governing body to make deductions
27 from their compensation for the payment of premiums on the
28 insurance.

29 (b) Purchase group policies of life, accident or health insurance,
30 or any combination thereof, for the benefit of such officers and
31 employees, and the dependents of such officers and employees, as
32 have authorized the purchase, from insurance companies authorized
33 to transact the business of such insurance in the State of Nevada,
34 and, where necessary, deduct from the compensation of officers and
35 employees the premiums upon insurance and pay the deductions
36 upon the premiums.

37 (c) Provide group life, accident or health coverage through a
38 self-insurance reserve fund and, where necessary, deduct
39 contributions to the maintenance of the fund from the compensation
40 of officers and employees and pay the deductions into the fund. The
41 money accumulated for this purpose through deductions from the
42 compensation of officers and employees and contributions of the
43 governing body must be maintained as an internal service fund as
44 defined by NRS 354.543. The money must be deposited in a state or
45 national bank or credit union authorized to transact business in the



1 State of Nevada. Any independent administrator of a fund created
2 under this section is subject to the licensing requirements of chapter
3 683A of NRS, and must be a resident of this State. Any contract
4 with an independent administrator must be approved by the
5 Commissioner of Insurance as to the reasonableness of
6 administrative charges in relation to contributions collected and
7 benefits provided. The provisions of NRS 687B.408, 689B.030 to
8 689B.050, inclusive, 689B.287 and 689B.500 *and section 1 of this*
9 *act* apply to coverage provided pursuant to this paragraph, except
10 that the provisions of NRS 689B.0378, 689B.03785 and 689B.500
11 only apply to coverage for active officers and employees of the
12 governing body, or the dependents of such officers and employees.

13 (d) Defray part or all of the cost of maintenance of a self-
14 insurance fund or of the premiums upon insurance. The money for
15 contributions must be budgeted for in accordance with the laws
16 governing the county, school district, municipal corporation,
17 political subdivision, public corporation or other local governmental
18 agency of the State of Nevada.

19 2. If a school district offers group insurance to its officers and
20 employees pursuant to this section, members of the board of trustees
21 of the school district must not be excluded from participating in the
22 group insurance. If the amount of the deductions from compensation
23 required to pay for the group insurance exceeds the compensation to
24 which a trustee is entitled, the difference must be paid by the trustee.

25 3. In any county in which a legal services organization exists,
26 the governing body of the county, or of any school district,
27 municipal corporation, political subdivision, public corporation or
28 other local governmental agency of the State of Nevada in the
29 county, may enter into a contract with the legal services
30 organization pursuant to which the officers and employees of the
31 legal services organization, and the dependents of those officers and
32 employees, are eligible for any life, accident or health insurance
33 provided pursuant to this section to the officers and employees, and
34 the dependents of the officers and employees, of the county, school
35 district, municipal corporation, political subdivision, public
36 corporation or other local governmental agency.

37 4. If a contract is entered into pursuant to subsection 3, the
38 officers and employees of the legal services organization:

39 (a) Shall be deemed, solely for the purposes of this section, to be
40 officers and employees of the county, school district, municipal
41 corporation, political subdivision, public corporation or other local
42 governmental agency with which the legal services organization has
43 contracted; and



1 (b) Must be required by the contract to pay the premiums or
2 contributions for all insurance which they elect to accept or of which
3 they authorize the purchase.

4 5. A contract that is entered into pursuant to subsection 3:

5 (a) Must be submitted to the Commissioner of Insurance for
6 approval not less than 30 days before the date on which the contract
7 is to become effective.

8 (b) Does not become effective unless approved by the
9 Commissioner.

10 (c) Shall be deemed to be approved if not disapproved by the
11 Commissioner within 30 days after its submission.

12 6. As used in this section, "legal services organization" means
13 an organization that operates a program for legal aid and receives
14 money pursuant to NRS 19.031.

15 **Sec. 9.** NRS 287.04335 is hereby amended to read as follows:

16 287.04335 If the Board provides health insurance through a
17 plan of self-insurance, it shall comply with the provisions of NRS
18 687B.409, 689B.255, 695G.150, 695G.155, 695G.160, 695G.162,
19 695G.164, 695G.1645, 695G.1665, 695G.167, 695G.170 to
20 695G.174, inclusive, 695G.177, 695G.200 to 695G.230, inclusive,
21 695G.241 to 695G.310, inclusive, and 695G.405, *and section 1 of*
22 *this act*, in the same manner as an insurer that is licensed pursuant to
23 title 57 of NRS is required to comply with those provisions.

24 **Sec. 10.** (Deleted by amendment.)

25 **Sec. 11.** (Deleted by amendment.)

26 **Sec. 12.** (Deleted by amendment.)

27 **Sec. 13.** The provisions of section 1 of this act do not apply to
28 any contract existing on October 1, 2021, between an insurer and a
29 provider of vision care until the contract is renewed.

30 **Sec. 14.** Notwithstanding the provisions of NRS 218D.430 and
31 218D.435, a committee, other than the Assembly Standing
32 Committee on Ways and Means and the Senate Standing Committee
33 on Finance, may vote on this act before the expiration of the period
34 prescribed for the return of a fiscal note in NRS 218D.475. This
35 section applies retroactively from and after March 22, 2021.

