

Amendment No. 619

Senate Amendment to Assembly Bill No. 436 First Reprint	(BDR 57-808)
Proposed by: Senate Committee on Commerce and Labor	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



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

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

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

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

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

23 5. *As used in this section:*

24 (a) *“Provider of vision care” means a physician who provides vision care or*
25 *an optometrist.*

26 (b) *“Vision care” means:*

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

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

30 ↪ *The term “vision care” does not include the initiation of treatment or*
31 *diagnosis pursuant to a program of medical care.*

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

33 686A.160 If the Commissioner has cause to believe that any person has been
34 engaged or is engaging, in this state, in any unfair method of competition or any
35 unfair or deceptive act or practice prohibited by NRS 686A.010 to 686A.310,
36 inclusive, *and section 1 of this act* and that a proceeding by the Commissioner in
37 respect thereto would be in the interest of the public, the Commissioner may issue
38 and serve upon such person a statement of the charges and a notice of the hearing to
39 be held thereon. The statement of charges and notice of hearing shall comply with
40 the requirements of NRS 679B.320 and shall be served upon such person directly or
41 by certified or registered mail, return receipt requested.

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

43 686A.183 1. After the hearing provided for in NRS 686A.160, the
44 Commissioner shall issue an order on hearing pursuant to NRS 679B.360. If the
45 Commissioner determines that the person charged has engaged in an unfair method
46 of competition or an unfair or deceptive act or practice in violation of NRS
47 686A.010 to 686A.310, inclusive, *and section 1 of this act*, the Commissioner shall
48 order the person to cease and desist from engaging in that method of competition,
49 act or practice, and may order one or both of the following:

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

6 (b) Suspension or revocation of the person's license if the person knew or
7 reasonably should have known that he or she was in violation of NRS 686A.010 to
8 686A.310, inclusive *and section 1 of this act*.

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

15 3. After the expiration of the time allowed for taking an appeal, if no petition
16 for review has been filed, the Commissioner may at any time, after notice and
17 opportunity for hearing, reopen and alter, modify or set aside, in whole or in part,
18 any order issued by him or her under this section whenever in the opinion of the
19 Commissioner conditions of fact or of law have so changed as to require such
20 action or if the public interest so requires.

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

22 686A.520 1. The provisions of NRS 683A.341, 683A.451, 683A.461 and
23 686A.010 to 686A.310, inclusive, *and section 1 of this act* apply to companies.

24 2. For the purposes of subsection 1, unless the context requires that a section
25 apply only to insurers, any reference in those sections to "insurer" must be replaced
26 by a reference to "company."

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

28 695B.320 1. Nonprofit hospital and medical or dental service corporations
29 are subject to the provisions of this chapter, and to the provisions of chapters 679A
30 and 679B of NRS, NRS 686A.010 to 686A.315, inclusive, *and section 1 of this act*,
31 687B.010 to 687B.040, inclusive, 687B.070 to 687B.140, inclusive, 687B.150,
32 687B.160, 687B.180, 687B.200 to 687B.255, inclusive, 687B.270, 687B.310 to
33 687B.380, inclusive, 687B.410, 687B.420, 687B.430, 687B.500 and chapters 692B,
34 692C, 693A and 696B of NRS, to the extent applicable and not in conflict with the
35 express provisions of this chapter.

36 2. For the purposes of this section and the provisions set forth in subsection 1,
37 a nonprofit hospital and medical or dental service corporation is included in the
38 meaning of the term "insurer."

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

40 695C.300 1. No health maintenance organization or representative thereof
41 may cause or knowingly permit the use of advertising which is untrue or
42 misleading, solicitation which is untrue or misleading or any form of evidence of
43 coverage which is deceptive. For purposes of this chapter:

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

47 (b) A statement or item of information shall be deemed to be misleading,
48 whether or not it may be literally untrue if, in the total context in which such
49 statement is made or such item of information is communicated, such statement or
50 item of information may be reasonably understood by a reasonable person not
51 possessing special knowledge regarding health care coverage, as indicating any
52 benefit or advantage or the absence of any exclusion, limitation or disadvantage of
53 possible significance to an enrollee of, or person considering enrollment in, a health

1 care plan if such benefit or advantage or absence of limitation, exclusion or
2 disadvantage does not in fact exist.

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

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

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

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

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

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

26 695F.090 1. Prepaid limited health service organizations are subject to the
27 provisions of this chapter and to the following provisions, to the extent reasonably
28 applicable:

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

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

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

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

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

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

37 (g) Chapter 683A of NRS.

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

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

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

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

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

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

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

2 287.010 1. The governing body of any county, school district, municipal
3 corporation, political subdivision, public corporation or other local governmental
4 agency of the State of Nevada may:

5 (a) Adopt and carry into effect a system of group life, accident or health
6 insurance, or any combination thereof, for the benefit of its officers and employees,
7 and the dependents of officers and employees who elect to accept the insurance and
8 who, where necessary, have authorized the governing body to make deductions
9 from their compensation for the payment of premiums on the insurance.

10 (b) Purchase group policies of life, accident or health insurance, or any
11 combination thereof, for the benefit of such officers and employees, and the
12 dependents of such officers and employees, as have authorized the purchase, from
13 insurance companies authorized to transact the business of such insurance in the
14 State of Nevada, and, where necessary, deduct from the compensation of officers
15 and employees the premiums upon insurance and pay the deductions upon the
16 premiums.

17 (c) Provide group life, accident or health coverage through a self-insurance
18 reserve fund and, where necessary, deduct contributions to the maintenance of the
19 fund from the compensation of officers and employees and pay the deductions into
20 the fund. The money accumulated for this purpose through deductions from the
21 compensation of officers and employees and contributions of the governing body
22 must be maintained as an internal service fund as defined by NRS 354.543. The
23 money must be deposited in a state or national bank or credit union authorized to
24 transact business in the State of Nevada. Any independent administrator of a fund
25 created under this section is subject to the licensing requirements of chapter 683A
26 of NRS, and must be a resident of this State. Any contract with an independent
27 administrator must be approved by the Commissioner of Insurance as to the
28 reasonableness of administrative charges in relation to contributions collected and
29 benefits provided. The provisions of NRS 687B.408, 689B.030 to 689B.050,
30 inclusive, 689B.287 and 689B.500 *and section 1 of this act* apply to coverage
31 provided pursuant to this paragraph, except that the provisions of NRS 689B.0378,
32 689B.03785 and 689B.500 only apply to coverage for active officers and
33 employees of the governing body, or the dependents of such officers and
34 employees.

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

40 2. If a school district offers group insurance to its officers and employees
41 pursuant to this section, members of the board of trustees of the school district must
42 not be excluded from participating in the group insurance. If the amount of the
43 deductions from compensation required to pay for the group insurance exceeds the
44 compensation to which a trustee is entitled, the difference must be paid by the
45 trustee.

46 3. In any county in which a legal services organization exists, the governing
47 body of the county, or of any school district, municipal corporation, political
48 subdivision, public corporation or other local governmental agency of the State of
49 Nevada in the county, may enter into a contract with the legal services organization
50 pursuant to which the officers and employees of the legal services organization, and
51 the dependents of those officers and employees, are eligible for any life, accident or
52 health insurance provided pursuant to this section to the officers and employees,
53 and the dependents of the officers and employees, of the county, school district,

1 municipal corporation, political subdivision, public corporation or other local
2 governmental agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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