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A.B. 310

ASSEMBLY BILL NO. 310—ASSEMBLYMEN BUCKLEY, OHRENSCHALL, CARPENTER, LESLIE, KOIVISTO, MCCLAIN, CLABORN, NOLAN, COLLINS, MANENDO, ANDERSON, PERKINS, ARBERRY, GIUNCHIGLIANI, WILLIAMS, PARKS, VON TOBEL, PRICE, GIBBONS, BERMAN, THOMAS, BEERS, EVANS, SEGERBLUM, GOLDWATER, PARNELL, DE BRAGA, FREEMAN, BACHE, CHOWNING, MORTENSON, NEIGHBORS, HUMKE, TIFFANY, GUSTAVSON, LEE, HETTRICK, CEGAVSKE, MARVEL AND BROWER

FEBRUARY 23, 1999

Referred to Concurrent Committees on Commerce and Labor
and Ways and Means

SUMMARY—Establishes office of ombudsman for health care within bureau of consumer protection in office of attorney general. (BDR 18-1289)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~for omitted material~~ is material to be omitted.

AN ACT relating to health; establishing the office of the ombudsman for health care within the bureau of consumer protection in the office of the attorney general; defining the duties of the ombudsman; imposing a fee on managed care organizations to pay the expenses of the office of the ombudsman for health care; providing a penalty; and providing other matters properly relating thereto.

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 thereto
- 2 the provisions set forth as sections 2 to 17, inclusive, of this act.
- 3 **Sec. 2.** *As used in sections 2 to 17, inclusive, of this act, unless the*
- 4 *context otherwise requires, the words and terms defined in sections 3 to*
- 5 *6, inclusive, of this act have the meanings ascribed to them in those*
- 6 *sections.*
- 7 **Sec. 3.** *“Consumer” means a natural person who has or is in need*
- 8 *of coverage under a health care plan.*

1 **Sec. 4.** *“Health care plan” has the meaning ascribed to it in NRS*
2 *679B.520.*

3 **Sec. 5.** *“Insurer” has the meaning ascribed to it in NRS 679B.540.*

4 **Sec. 6.** *“Ombudsman” means the ombudsman for health care*
5 *appointed pursuant to section 7 of this act.*

6 **Sec. 7.** *The office of the ombudsman for health care is hereby*
7 *established within the bureau of consumer protection in the office of the*
8 *attorney general. The attorney general shall appoint the ombudsman.*
9 *The person so appointed must have expertise and experience in the fields*
10 *of health care and advocacy.*

11 **Sec. 8.** *The ombudsman shall:*

12 1. *Assist consumers with the selection of health care plans by*
13 *providing information, referral services and assistance to consumers*
14 *relating to obtaining coverage and services under health care plans;*

15 2. *Assist consumers in understanding their rights and responsibilities*
16 *under health care plans;*

17 3. *Provide information to the general public, agencies, legislators*
18 *and other persons concerning the problems and concerns of consumers*
19 *relating to health insurance, and make recommendations as appropriate*
20 *for solving those problems and concerns;*

21 4. *To the extent possible, identify, investigate and resolve complaints*
22 *on behalf of consumers and assist those consumers with the filing and*
23 *pursuit of complaints and appeals;*

24 5. *Analyze and monitor the development and implementation of*
25 *federal, state and local laws, regulations and policies relating to health*
26 *insurance in this state, and recommend such changes concerning the*
27 *development and implementation of those laws, regulations and policies*
28 *as the ombudsman deems appropriate;*

29 6. *Facilitate and encourage public comment on laws, regulations*
30 *and policies relating to health insurance in this state, including, without*
31 *limitation, the policies and actions of insurers who issue or deliver for*
32 *issuance health care plans in this state;*

33 7. *Promote the development of organizations of consumers and other*
34 *residents of this state relating to the provision of health care plans in this*
35 *state; and*

36 8. *Ensure that consumers have timely access to the services offered*
37 *by the office of the ombudsman.*

38 **Sec. 9.** *The ombudsman may:*

39 1. *Hire or enter into contracts with persons as necessary to carry out*
40 *the provisions of sections 2 to 17, inclusive, of this act;*

1 2. Pursue administrative, judicial and other remedies on behalf of a
2 consumer or group of consumers;

3 3. Delegate any of his duties and responsibilities to his employees or
4 persons with whom he has contracted pursuant to subsection 1;

5 4. Adopt policies and procedures necessary to carry out the
6 provisions of sections 2 to 17, inclusive, of this act; and

7 5. Take any other action necessary to carry out the provisions of
8 sections 2 to 17, inclusive, of this act.

9 **Sec. 10.** The ombudsman may review the health insurance records
10 of a consumer if the consumer, his legal guardian or legal representative
11 has given written consent for the release of the records to the
12 ombudsman. If the consumer, his legal guardian or legal representative
13 has given such consent, the insurer shall provide the ombudsman with
14 access to the records relating to that consumer.

15 **Sec. 11.** All state agencies shall comply with reasonable requests
16 from the ombudsman for information and assistance.

17 **Sec. 12.** The ombudsman shall not disclose the identity of a
18 consumer who has filed with the ombudsman a complaint concerning an
19 insurer, or who is otherwise using the services of the ombudsman, in the
20 absence of the written consent of the consumer, his legal guardian or
21 legal representative, or a court order for the disclosure.

22 **Sec. 13. 1.** The ombudsman, his employees and contractors shall
23 not have any conflict of interest relating to the performance of their
24 duties pursuant to sections 2 to 17, inclusive, of this act. For the purposes
25 of this section, a conflict of interest shall be deemed to exist if the
26 ombudsman, employee or contractor, or any person affiliated with the
27 ombudsman, employee or contractor:

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

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

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

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

37 2. As used in this section, "provider of health care" has the meaning
38 ascribed to it in NRS 629.031.

39 **Sec. 14.** The ombudsman may speak on behalf of the public interest
40 and the interest of consumers, and may carry out his duties prescribed in
41 sections 2 to 17, inclusive, of this act, without being subject to any
42 disciplinary or retaliatory action.

1 **Sec. 15.** *On or before January 1 of each year, the ombudsman shall*
2 *submit to the governor, and to the director of the legislative counsel*
3 *bureau for transmittal to the legislative committee on health care, a*
4 *report on the activities, performance and fiscal accounts of the office of*
5 *the ombudsman during the preceding year.*

6 **Sec. 16.** *Upon the request of the interim finance committee or*
7 *legislative committee on health care, the attorney general and the*
8 *ombudsman shall provide to the interim finance committee or legislative*
9 *committee on health care, as appropriate, a report concerning the office*
10 *of the ombudsman for health care. The report must include:*

11 1. *An update on the status of the implementation of the provisions of*
12 *sections 2 to 17, inclusive, of this act;*

13 2. *A description of the manner in which the ombudsman is and will*
14 *be coordinating his efforts and activities with other ombudsmen in this*
15 *state, including, without limitation, the ombudsman for aging persons;*
16 *and*

17 3. *Such other information as the interim finance committee or*
18 *legislative committee on health care, as appropriate, requests.*

19 **Sec. 17.** *The provisions of sections 2 to 17, inclusive, of this act, do*
20 *not limit the exclusive jurisdiction of the commissioner otherwise granted*
21 *by statute to investigate or take administrative or civil action:*

22 1. *For any violation of Title 57 of NRS by any person or entity who is*
23 *or has been licensed by the commissioner pursuant to Title 57 of NRS;*

24 2. *Against any person or entity who is or has been engaged in the*
25 *business of insurance without a license as required by Title 57 of NRS;*
26 *or*

27 3. *Against any person or entity as the commissioner deems*
28 *appropriate.*

29 **Sec. 18.** NRS 228.330 is hereby amended to read as follows:

30 228.330 ~~{The}~~ *Except as otherwise provided in sections 2 to 17,*
31 *inclusive, of this act, the* consumer's advocate may:

32 1. Employ such staff as is necessary to carry out his duties and the
33 functions of his office, in accordance with the personnel practices and
34 procedures established within the attorney general's office. The
35 consumer's advocate has sole discretion to employ and remove any
36 member of his staff.

37 2. Purchase necessary equipment.

38 3. Lease or make other suitable arrangements for office space, but any
39 lease which extends beyond the term of 1 year must be reviewed and
40 approved by a majority of the members of the state board of examiners.

41 4. Apply for an order or subpoena for the appearance of witnesses or
42 the production of books, papers and documents in any proceeding in which
43 he is a party or intervener, in the same manner as any other party or

1 intervener, and make arrangements for and pay the fees or costs of any
2 witnesses and consultants necessary to the proceeding. If any person
3 ordered by the public utilities commission of Nevada to appear before it as
4 a witness pursuant to this subsection fails to obey the order, the
5 commission shall apply for a subpoena commanding the attendance of the
6 witness.

7 5. Perform such other functions and make such other arrangements as
8 may be necessary to carry out his duties and the functions of his office.

9 **Sec. 19.** Chapter 695G of NRS is hereby amended by adding thereto a
10 new section to read as follows:

11 ***1. A managed care organization shall, on or before March 1 of each***
12 ***year:***

13 ***(a) Submit to the commissioner a report containing the number of***
14 ***patients treated by the managed care organization during the next***
15 ***preceding calendar year and any other information required by the***
16 ***commissioner; and***

17 ***(b) Remit to the commissioner an amount equal to \$1 for each such***
18 ***patient.***

19 ***2. The money remitted to the commissioner pursuant to this section***
20 ***must be:***

21 ***(a) Transmitted to the state treasurer for deposit in the state general***
22 ***fund;***

23 ***(b) Accounted for separately; and***

24 ***(c) Used to pay the expenses of the office of the ombudsman for***
25 ***health care pursuant to sections 2 to 17, inclusive, of this act, including***
26 ***any expenses incident to or associated with the requirements of those***
27 ***sections.***

28 **Sec. 20.** The attorney general and the ombudsman for health care
29 appointed pursuant to section 7 of this act shall submit a report pursuant to
30 section 16 of this act to the interim finance committee on or before
31 September 15, 2000.

32 **Sec. 21.** 1. This section and sections 1 to 6, inclusive, and 19 of this
33 act become effective on October 1, 1999.

34 2. Sections 7 to 18, inclusive, and 20 of this act become effective on
35 July 1, 2000.