

ASSEMBLY BILL NO. 63—ASSEMBLYMEN LESLIE, BUCKLEY,
GIUNCHIGLIANI, PARKS, ANDERSON, MCCLAIN AND OCEGUERA

FEBRUARY 16, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Prohibits certain practices by health insurers with regard to injuries sustained while under influence of alcohol or controlled substance. (BDR 57-207)

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 insurance; prohibiting certain health insurers from denying certain claims solely because the claims involve an insured who was injured while intoxicated or under the influence of a controlled substance; prohibiting certain health insurers from cancelling or refusing to issue a policy or contract of health insurance solely because an insured or applicant has made such a claim in certain circumstances; repealing a section in the Uniform Health Policy Provision Law which allows certain health insurers to deny claims involving losses sustained by an insured while intoxicated or under the influence of a narcotic; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, certain health insurers may deny a claim because the
2 insured person was injured while under the influence of alcohol or drugs.
3 (NRS 689A.280)

4 This bill repeals that existing law. This bill further specifically prohibits certain
5 health insurers from denying a claim solely because the insured person was injured
6 while under the influence of alcohol or drugs. This bill also prohibits those health
7 insurers from cancelling or refusing to issue a policy solely because an insured
8 person or a person eligible to apply for the policy has made such a claim. The bill
9 provides, however, that such health insurers may deny a claim or cancel or refuse to



10 issue a policy if the claim involved an injury sustained in connection with the
11 insured's commission of a felony or attempt to commit a felony regardless of
12 whether the person was injured while under the influence of alcohol or drugs.

13 A health insurer that violates the provisions of this bill is subject to the general
14 penalty provisions that apply to all types of insurers and to any specific penalty
15 provision that applies to particular types of health insurers. (NRS 679A.180,
16 695A.580, 695C.350, 695D.300, 695F.360)

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

1 **Section 1.** Chapter 689A of NRS is hereby amended by
2 adding thereto a new section to read as follows:

3 ***1. Except as otherwise provided in subsection 2, an insurer***
4 ***shall not:***

5 ***(a) Deny a claim under a policy of health insurance solely***
6 ***because the claim involves an injury sustained by an insured as a***
7 ***consequence of being intoxicated or under the influence of a***
8 ***controlled substance.***

9 ***(b) Cancel a policy of health insurance solely because an***
10 ***insured has made a claim involving an injury sustained by the***
11 ***insured as a consequence of being intoxicated or under the***
12 ***influence of a controlled substance.***

13 ***(c) Refuse to issue a policy of health insurance to an eligible***
14 ***applicant solely because the applicant has made a claim involving***
15 ***an injury sustained by the applicant as a consequence of being***
16 ***intoxicated or under the influence of a controlled substance.***

17 ***2. The provisions of this section do not prohibit an insurer***
18 ***from enforcing a provision included in a policy of health***
19 ***insurance pursuant to NRS 689A.270 to:***

20 ***(a) Deny a claim which involves an injury to which a***
21 ***contributing cause was the insured's commission of or attempt to***
22 ***commit a felony;***

23 ***(b) Cancel a policy of health insurance solely because of such***
24 ***a claim; or***

25 ***(c) Refuse to issue a policy of health insurance to an eligible***
26 ***applicant solely because of such a claim.***

27 **Sec. 2.** NRS 689A.180 is hereby amended to read as follows:

28 689A.180 Except as *otherwise* provided in NRS 689A.040, no
29 such policy delivered or issued for delivery to any person in this
30 State may contain provisions respecting the matters set forth in NRS
31 689A.190 to ~~689A.280,~~ **689A.270**, inclusive, unless the provisions
32 are in the words in which the provisions appear in the applicable
33 section, except that the insurer may, at its option, use in lieu of any
34 such provision a corresponding provision of different wording



1 approved by the Commissioner which is not less favorable in any
2 respect to the insured or the beneficiary. Any such provision
3 contained in the policy must be preceded individually by the
4 appropriate caption or, at the option of the insurer, by such
5 appropriate individual or group captions or subcaptions as the
6 Commissioner may approve.

7 **Sec. 3.** Chapter 689B of NRS is hereby amended by adding
8 thereto a new section to read as follows:

9 **1. Except as otherwise provided in subsection 2, an insurer**
10 **shall not:**

11 **(a) Deny a claim under a policy of group health insurance**
12 **solely because the claim involves an injury sustained by an**
13 **insured as a consequence of being intoxicated or under the**
14 **influence of a controlled substance.**

15 **(b) Cancel a policy of group health insurance solely because**
16 **an insured has made a claim involving an injury sustained by the**
17 **insured as a consequence of being intoxicated or under the**
18 **influence of a controlled substance.**

19 **(c) Refuse to issue a policy of group health insurance to an**
20 **eligible applicant solely because the applicant has made a claim**
21 **involving an injury sustained by the applicant as a consequence of**
22 **being intoxicated or under the influence of a controlled substance.**

23 **2. The provisions of this section do not prohibit an insurer**
24 **from enforcing a provision included in a policy of group health**
25 **insurance to:**

26 **(a) Deny a claim which involves an injury to which a**
27 **contributing cause was the insured's commission of or attempt to**
28 **commit a felony;**

29 **(b) Cancel a policy of group health insurance solely because of**
30 **such a claim; or**

31 **(c) Refuse to issue a policy of group health insurance to an**
32 **eligible applicant solely because of such a claim.**

33 **Sec. 4.** Chapter 689C of NRS is hereby amended by adding
34 thereto a new section to read as follows:

35 **1. Except as otherwise provided in subsection 2, a carrier**
36 **shall not:**

37 **(a) Deny a claim under a health benefit plan solely because**
38 **the claim involves an injury sustained by an insured as a**
39 **consequence of being intoxicated or under the influence of a**
40 **controlled substance.**

41 **(b) Cancel participation under a health benefit plan solely**
42 **because an insured has made a claim involving an injury**
43 **sustained by the insured as a consequence of being intoxicated or**
44 **under the influence of a controlled substance.**



1 (c) Refuse participation under a health benefit plan to an
2 eligible applicant solely because the applicant has made a claim
3 involving an injury sustained by the applicant as a consequence of
4 being intoxicated or under the influence of a controlled substance.

5 2. The provisions of this section do not prohibit a carrier
6 from enforcing a provision included in a health benefit plan to:

7 (a) Deny a claim which involves an injury to which a
8 contributing cause was the insured's commission of or attempt to
9 commit a felony;

10 (b) Cancel participation in a health benefit plan solely because
11 of such a claim; or

12 (c) Refuse participation in a health benefit plan to an eligible
13 applicant solely because of such a claim.

14 **Sec. 5.** Chapter 695A of NRS is hereby amended by adding
15 thereto a new section to read as follows:

16 1. Except as otherwise provided in subsection 2, a society that
17 provides health benefits shall not:

18 (a) Deny a claim under a benefit contract solely because the
19 claim involves an injury sustained by an insured as a consequence
20 of being intoxicated or under the influence of a controlled
21 substance.

22 (b) Cancel a benefit contract solely because an insured has
23 made a claim involving an injury sustained by the insured as a
24 consequence of being intoxicated or under the influence of a
25 controlled substance.

26 (c) Refuse to issue a benefit contract to an eligible applicant
27 solely because the applicant has made a claim involving an injury
28 sustained by the applicant as a consequence of being intoxicated
29 or under the influence of a controlled substance.

30 2. The provisions of this section do not prohibit a society from
31 enforcing a provision included in a benefit contract to:

32 (a) Deny a claim which involves an injury to which a
33 contributing cause was the insured's commission of or attempt to
34 commit a felony;

35 (b) Cancel a benefit contract solely because of such a claim; or

36 (c) Refuse to issue a benefit contract to an eligible applicant
37 solely because of such a claim.

38 **Sec. 6.** Chapter 695B of NRS is hereby amended by adding
39 thereto a new section to read as follows:

40 1. Except as otherwise provided in subsection 2, a medical
41 services corporation that issues contracts for hospital, medical or
42 dental services shall not:

43 (a) Deny a claim under such a contract solely because the
44 claim involves an injury sustained by an insured as a consequence



1 of being intoxicated or under the influence of a controlled
2 substance.

3 (b) Cancel such a contract solely because an insured has made
4 a claim involving an injury sustained by the insured as a
5 consequence of being intoxicated or under the influence of a
6 controlled substance.

7 (c) Refuse to issue such a contract to an eligible applicant
8 solely because the applicant has made a claim involving an injury
9 sustained by the applicant as a consequence of being intoxicated
10 or under the influence of a controlled substance.

11 2. The provisions of this section do not prohibit a medical
12 services corporation from enforcing a provision included in a
13 contract for hospital, medical or dental services to:

14 (a) Deny a claim which involves an injury to which a
15 contributing cause was the insured's commission of or attempt to
16 commit a felony;

17 (b) Cancel such a contract solely because of such a claim; or

18 (c) Refuse to issue such a contract to an eligible applicant
19 solely because of such a claim.

20 **Sec. 7.** Chapter 695C of NRS is hereby amended by adding
21 thereto a new section to read as follows:

22 1. Except as otherwise provided in subsection 2, a health
23 maintenance organization shall not:

24 (a) Deny a claim under a health care plan solely because the
25 claim involves an injury sustained by an enrollee as a
26 consequence of being intoxicated or under the influence of a
27 controlled substance.

28 (b) Cancel participation under a health care plan solely
29 because an enrollee has made a claim involving an injury
30 sustained by the enrollee as a consequence of being intoxicated or
31 under the influence of a controlled substance.

32 (c) Refuse participation under a health care plan to an eligible
33 applicant solely because the applicant has made a claim involving
34 an injury sustained by the applicant as a consequence of being
35 intoxicated or under the influence of a controlled substance.

36 2. The provisions of this section do not prohibit a health
37 maintenance organization from enforcing a provision included in
38 a health care plan to:

39 (a) Deny a claim which involves an injury to which a
40 contributing cause was the insured's commission of or attempt to
41 commit a felony;

42 (b) Cancel participation under a health care plan solely
43 because of such a claim; or

44 (c) Refuse participation under a health care plan to an eligible
45 applicant solely because of such a claim.



1 **Sec. 8.** Chapter 695D of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *Except as otherwise provided in subsection 2, an*
4 *organization for dental care shall not:*

5 (a) *Deny a claim under a plan for dental care solely because*
6 *the claim involves an injury sustained by a member as a*
7 *consequence of being intoxicated or under the influence of a*
8 *controlled substance.*

9 (b) *Cancel participation under a plan for dental care solely*
10 *because a member has made a claim involving an injury sustained*
11 *by the member as a consequence of being intoxicated or under the*
12 *influence of a controlled substance.*

13 (c) *Refuse participation under a plan for dental care to an*
14 *eligible applicant solely because the applicant has made a claim*
15 *involving an injury sustained by the applicant as a consequence of*
16 *being intoxicated or under the influence of a controlled substance.*

17 2. *The provisions of this section do not prohibit an*
18 *organization for dental care from enforcing a provision included*
19 *in a plan for dental care to:*

20 (a) *Deny a claim which involves an injury to which a*
21 *contributing cause was the insured's commission of or attempt to*
22 *commit a felony;*

23 (b) *Cancel participation under a plan for dental care solely*
24 *because of such a claim; or*

25 (c) *Refuse participation under a plan for dental care to an*
26 *eligible applicant solely because of such a claim.*

27 **Sec. 9.** NRS 695F.090 is hereby amended to read as follows:

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

31 1. NRS 687B.310 to 687B.420, inclusive, concerning
32 cancellation and nonrenewal of policies.

33 2. NRS 687B.122 to 687B.128, inclusive, concerning
34 readability of policies.

35 3. The requirements of NRS 679B.152.

36 4. The fees imposed pursuant to NRS 449.465.

37 5. NRS 686A.010 to 686A.310, inclusive, concerning trade
38 practices and frauds.

39 6. The assessment imposed pursuant to NRS 679B.700.

40 7. Chapter 683A of NRS.

41 8. To the extent applicable, the provisions of NRS 689B.340 to
42 689B.590, inclusive, and chapter 689C of NRS relating to the
43 portability and availability of health insurance.

44 9. NRS 689A.035, 689A.410 and 689A.413 **H** *and section 1*
45 *of this act.*



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

11. Chapter 692C of NRS, concerning holding companies.

12. NRS 689A.637, concerning health centers.

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

1. Except as otherwise provided in subsection 2, a managed care organization shall not:

(a) Deny a claim under a health care plan solely because the claim involves an injury sustained by an insured as a consequence of being intoxicated or under the influence of a controlled substance.

(b) Cancel participation under a health care plan solely because an insured has made a claim involving an injury sustained by the insured as a consequence of being intoxicated or under the influence of a controlled substance.

(c) Refuse participation under a health care plan to an eligible applicant solely because the applicant has made a claim involving an injury sustained by the applicant as a consequence of being intoxicated or under the influence of a controlled substance.

2. The provisions of this section do not prohibit a managed care organization from enforcing a provision included in a health care plan to:

(a) Deny a claim which involves an injury to which a contributing cause was the insured's commission of or attempt to commit a felony;

(b) Cancel participation under a health care plan solely because of such a claim; or

(c) Refuse participation under a health care plan to an eligible applicant solely because of such a claim.

Sec. 11. NRS 287.010 is hereby amended to read as follows:

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

(a) Adopt and carry into effect a system of group life, accident or health insurance, or any combination thereof, for the benefit of its officers and employees, and the dependents of officers and employees who elect to accept the insurance and who, where necessary, have authorized the governing body to make deductions



1 from their compensation for the payment of premiums on the
2 insurance.

3 (b) Purchase group policies of life, accident or health insurance,
4 or any combination thereof, for the benefit of such officers and
5 employees, and the dependents of such officers and employees, as
6 have authorized the purchase, from insurance companies authorized
7 to transact the business of such insurance in the State of Nevada,
8 and, where necessary, deduct from the compensation of officers and
9 employees the premiums upon insurance and pay the deductions
10 upon the premiums.

11 (c) Provide group life, accident or health coverage through a
12 self-insurance reserve fund and, where necessary, deduct
13 contributions to the maintenance of the fund from the compensation
14 of officers and employees and pay the deductions into the fund. The
15 money accumulated for this purpose through deductions from the
16 compensation of officers and employees and contributions of the
17 governing body must be maintained as an internal service fund as
18 defined by NRS 354.543. The money must be deposited in a state or
19 national bank or credit union authorized to transact business in the
20 State of Nevada. Any independent administrator of a fund created
21 under this section is subject to the licensing requirements of chapter
22 683A of NRS, and must be a resident of this State. Any contract
23 with an independent administrator must be approved by the
24 Commissioner of Insurance as to the reasonableness of
25 administrative charges in relation to contributions collected and
26 benefits provided. The provisions of NRS 689B.030 to 689B.050,
27 inclusive, and 689B.575 *and section 3 of this act* apply to coverage
28 provided pursuant to this paragraph, except that the provisions of
29 NRS 689B.0359 do not apply to such coverage.

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

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

42 **Sec. 12.** NRS 287.04335 is hereby amended to read as
43 follows:

44 287.04335 If the Board provides health insurance through a
45 plan of self-insurance, it shall comply with the provisions of NRS



1 689B.255, 695G.150, 695G.160, 695G.164, 695G.170, 695G.173
2 *and section 10 of this act*, 695G.200 to 695G.230, inclusive, and
3 695G.241 to 695G.310, inclusive, in the same manner as an insurer
4 that is licensed pursuant to title 57 of NRS is required to comply
5 with those provisions.

6 **Sec. 13.** NRS 689A.280 is hereby repealed.

7 **Sec. 14.** 1. Except as otherwise provided in subsection 2, any
8 provision in a policy or contract that conflicts with the provisions of
9 this act is void and must not be given effect to the extent that it
10 conflicts with the provisions of this act.

11 2. An insurer or other organization providing health coverage
12 under chapter 287, 689A, 689B, 689C, 695A, 695B, 695C, 695D,
13 695F or 695G of NRS may deny a claim involving an injury
14 sustained by a person as a consequence of being intoxicated or
15 under the influence of a controlled substance if the injury occurred
16 before July 1, 2006, and the denial of the claim is based on a
17 provision in a policy or contract that was in effect at the time of the
18 injury.

19 **Sec. 15.** This act becomes effective on July 1, 2006.

TEXT OF REPEALED SECTION

689A.280 Intoxicants and narcotics.

1. There may be a provision as follows:

Intoxicants and Narcotics: The insurer is not liable for any
loss sustained or contracted in consequence of the insured's
being intoxicated or under the influence of any narcotic
unless administered on the advice of a physician.

2. If the insurer includes the provision set forth in subsection 1,
he shall also provide that such provision in no way affects benefits
payable for the treatment of alcohol or drug abuse, as required by
subsection 9 of NRS 689A.030.



