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:

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

This bill repeals that existing law. This bill further specifically prohibits certain health insurers from denying a claim solely because the insured person was injured while under the influence of alcohol or drugs. This bill also prohibits those health insurers from cancelling or refusing to issue a policy solely because an insured person or a person eligible to apply for the policy has made such a claim. The bill provides, however, that such health insurers may deny a claim or cancel or refuse to issue a policy if the claim involved an injury sustained in connection with the insured's commission of a felony or attempt to commit a felony regardless of whether the person was injured while under the influence of alcohol or drugs.

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

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

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

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

(a) Deny a claim under a policy of health insurance 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 a policy of health insurance 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 to issue a policy of health insurance 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 an insurer from enforcing a provision included in a policy of health insurance pursuant to NRS 689A.270 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 a policy of health insurance solely because of such a claim; or

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

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

689A.180 Except as ***otherwise*** provided in NRS 689A.040, no such policy delivered or issued for delivery to any person in this State may contain provisions respecting the matters set forth in NRS 689A.190 to **[**~~689A.280,~~**]** ***689A.270,*** inclusive, unless the provisions are in the words in which the provisions appear in the applicable section, except that the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the Commissioner which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy must be preceded individually by the appropriate caption or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the Commissioner may approve.

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

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

(a) Deny a claim under a policy of group health insurance 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 a policy of group health insurance 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 to issue a policy of group health insurance 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 an insurer from enforcing a provision included in a policy of group health insurance 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 a policy of group health insurance solely because of such a claim; or

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

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

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

(a) Deny a claim under a health benefit 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 benefit 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 benefit 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 carrier from enforcing a provision included in a health benefit 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 in a health benefit plan solely because of such a claim; or

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

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

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

(a) Deny a claim under a benefit contract 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 a benefit contract 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 to issue a benefit contract 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 society from enforcing a provision included in a benefit contract 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 a benefit contract solely because of such a claim; or

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

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

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

(a) Deny a claim under such a contract 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 such a contract 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 to issue such a contract 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 medical services corporation from enforcing a provision included in a contract for hospital, medical or dental services 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 such a contract solely because of such a claim; or

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

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

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

(a) Deny a claim under a health care plan solely because the claim involves an injury sustained by an enrollee 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 enrollee has made a claim involving an injury sustained by the enrollee 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 health maintenance 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. 8. Chapter 695D of NRS is hereby amended by adding thereto a new section to read as follows:

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

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

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

(c) Refuse participation under a plan for dental care 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 an organization for dental care from enforcing a provision included in a plan for dental care 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 plan for dental care solely because of such a claim; or

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

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

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

1. NRS 687B.310 to 687B.420, inclusive, concerning cancellation and nonrenewal of policies.
2. NRS 687B.122 to 687B.128, inclusive, concerning readability of policies.
3. The requirements of NRS 679B.152.
4. The fees imposed pursuant to NRS 449.465.
5. NRS 686A.010 to 686A.310, inclusive, concerning trade practices and frauds.
6. The assessment imposed pursuant to NRS 679B.700.
7. Chapter 683A of NRS.
8. To the extent applicable, the provisions of NRS 689B.340 to 689B.590, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance.
9. NRS 689A.035, 689A.410 and 689A.413 ~~[.]~~ ***and section 1 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 from their compensation for the payment of premiums on the insurance.

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

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

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

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

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

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

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

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

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

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

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.