

## Amendment No. 55

Assembly Amendment to Assembly Bill No. 122

(BDR 18-35)

**Proposed by:** Assembly Committee on Health and Human Services**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

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) *green bold italic underlining* is new language proposed 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 that is proposed to be retained in this amendment; and (6) *green bold dashed underlining* is newly added transitory language.

WBD/RBL



Date: 4/5/2009

A.B. No. 122—Makes various changes relating to the Office for Consumer Health Assistance. (BDR 18-35)



ASSEMBLY BILL NO. 122—COMMITTEE ON  
HEALTH AND HUMAN SERVICES

PREFILED JANUARY 27, 2009

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes relating to the Office for Consumer Health Assistance. (BDR 18-35)

FISCAL NOTE: Effect on Local Government: No.  
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 the Office for Consumer Health Assistance; expanding the definition of “consumer” to include more situations in which assistance may be rendered; expanding the authority of the Director of the Office for Consumer Health Assistance to adopt necessary regulations; making various other changes relating to the Office for Consumer Health Assistance; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law establishes the Office for Consumer Health Assistance in the Office of the Governor to provide assistance to consumers in obtaining information or other assistance relating to a variety of medical issues. (NRS 223.550) **Section 1** of this bill adds to the definition of “consumer” a person who is in need of information or other assistance regarding his health care services or disputes related to the billing or payment of his medical claims. (NRS 223.510)

**Section 2** of this bill expands the current authority of the Director of the Office for Consumer Health Assistance to adopt regulations relating to the Office for Consumer Health Assistance, which would allow, for example, the adoption of regulations addressing procedures for hearing disputes between patients and hospitals. (NRS 223.560, 223.570)

**Section 4** of this bill authorizes a designee of the Director to hear, mediate, arbitrate or resolve by alternative means of dispute resolution disputes between patients and hospitals. (NRS 223.575)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:**Section 1.** NRS 223.510 is hereby amended to read as follows:

223.510 “Consumer” means a natural person who:

1. Has or is in need of coverage under a health care plan;

2. Is in need of information or other assistance regarding a prescription drug program; ~~for~~

3. May need information concerning purchasing prescription drugs from Canadian pharmacies ~~and~~; or

4. *Is in need of information or other assistance regarding his health care services or disputes in billing related to his medical claims.*

Sec. 2. NRS 223.560 is hereby amended to read as follows:

223.560 1. The Director shall:

~~(1)~~ (a) Respond to written and telephonic inquiries received from consumers and injured employees regarding concerns and problems related to health care and workers' compensation;

~~(2)~~ (b) Assist consumers and injured employees in understanding their rights and responsibilities under health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance;

~~(3)~~ (c) Identify and investigate complaints of consumers and injured employees regarding their health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance and assist those consumers and injured employees to resolve their complaints, including, without limitation:

~~(a)~~ (1) Referring consumers and injured employees to the appropriate agency, department or other entity that is responsible for addressing the specific complaint of the consumer or injured employee; and

~~(b)~~ (2) Providing counseling and assistance to consumers and injured employees concerning health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance;

~~(4)~~ (d) Provide information to consumers and injured employees concerning health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance in this State;

~~(5)~~ (e) Establish and maintain a system to collect and maintain information pertaining to the written and telephonic inquiries received by the Office for Consumer Health Assistance;

~~(6)~~ (f) Take such actions as are necessary to ensure public awareness of the existence and purpose of the services provided by the Director pursuant to this section;

~~(7)~~ (g) In appropriate cases and pursuant to the direction of the Governor, refer a complaint or the results of an investigation to the Attorney General for further action;

~~(8)~~ (h) Provide information to and applications for prescription drug programs for consumers without insurance coverage for prescription drugs or pharmaceutical services; and

~~(9)~~ (i) Establish and maintain an Internet website which includes:

~~(a)~~ (1) Information concerning purchasing prescription drugs from Canadian pharmacies that have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328;

~~(b)~~ (2) Links to websites of Canadian pharmacies which have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328; and

~~(c)~~ (3) A link to the website established and maintained pursuant to NRS 439A.270 which provides information to the general public concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State.

2. *The Director may adopt such regulations as he deems to be necessary to carry out the provisions of NRS 223.500 to 223.580, inclusive.*

Sec. 3. NRS 223.570 is hereby amended to read as follows:

223.570 1. The Director, within the limits of available money:

(a) Shall, to carry out the provisions of this section and NRS 223.560 and 223.580, employ at least two persons who have experience in the field of workers' compensation, including, without limitation, persons who have experience in administering claims or programs related to policies of industrial insurance, representing employees in contested claims relating to policies of industrial insurance or advocating for the rights of injured employees; and

(b) May, in addition to the persons required to be employed pursuant to paragraph (a), employ:

(1) Such persons in the unclassified service of the State as he determines to be necessary to carry out the provisions of this section and NRS 223.560 and 223.580, including, without limitation, a provider of health care, as that term is defined in NRS 449.581.

(2) Such additional personnel as may be required to carry out the provisions of this section and NRS 223.560 and 223.580, who must be in the classified service of the State.

➤ A person employed pursuant to the authority set forth in this subsection must be qualified by training and experience to perform the duties for which the Director employs him.

2. The Director may:

(a) To the extent not otherwise prohibited by law, obtain such information from consumers, injured employees, health care plans, prescription drug programs and policies of industrial insurance as he determines to be necessary to carry out the provisions of this section and NRS 223.560 and 223.580.

~~(b) [Adopt such regulations as he determines to be necessary to carry out the provisions of this section and NRS 223.560 and 223.580.~~

~~—(c)—~~ Apply for any available grants, accept any gifts, grants or donations and use any such gifts, grants or donations to aid the Office for Consumer Health Assistance in carrying out its duties pursuant to ~~[subsections 8 and 9]~~ paragraphs (h) and (i) of subsection 1 of NRS 223.560.

3. The Director and his employees shall not have any conflict of interest relating to the performance of their duties pursuant to this section and NRS 223.560 and 223.580. For the purposes of this subsection, a conflict of interest shall be deemed to exist if the Director or employee, or any person affiliated with the Director or employee:

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

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

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

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

**Sec. 4.** NRS 223.575 is hereby amended to read as follows:

223.575 1. The Bureau for Hospital Patients is hereby created within the Office for Consumer Health Assistance in the Office of the Governor.

2. The Director:

(a) Is responsible for the operation of the Bureau, which must be easily accessible to the clientele of the Bureau.

(b) Shall appoint and supervise such additional employees as are necessary to carry out the duties of the Bureau. The employees of the Bureau are in the unclassified service of the State.

(c) On or before February 1 of each year, shall submit a written report to the Governor, and to the Director of the Legislative Counsel Bureau concerning the activities of the Bureau for Hospital Patients for transmittal to the appropriate committee or committees of the Legislature. The report must include, without limitation, the number of complaints received by the Bureau, the number and type of disputes heard, mediated, arbitrated or resolved through alternative means of dispute resolution by the Director and the outcome of the mediation, arbitration or alternative means of dispute resolution.

3. The Director *or his designee* may, upon request made by either party, hear, mediate, arbitrate or resolve by alternative means of dispute resolution disputes between patients and hospitals. The Director *or his designee* may decline to hear a case that in his opinion is trivial, without merit or beyond the scope of his jurisdiction. The Director *or his designee* may hear, mediate, arbitrate or resolve through alternative means of dispute resolution disputes regarding:

(a) The accuracy or amount of charges billed to a patient;

(b) The reasonableness of arrangements made *for a patient to pay any bill for medical services, including, without limitation, arrangements to pay hospital bills made* pursuant to paragraph (c) of subsection 1 of NRS 439B.260; and

(c) Such other matters related to the charges for care provided to a patient as the Director *or his designee* determines appropriate for arbitration, mediation or other alternative means of dispute resolution.

*➤ The designee must be an employee of the State and, except for the purposes of this subsection, must not be employed by or otherwise associated with the Bureau or the Office for Consumer Health Assistance.*

4. The decision of the Director *or his designee* is a final decision for the purpose of judicial review.

5. Each hospital, other than federal and state hospitals, with 49 or more licensed or approved hospital beds shall pay an annual assessment for the support of the Bureau. On or before July 15 of each year, the Director shall notify each hospital of its assessment for the fiscal year. Payment of the assessment is due on or before September 15. Late payments bear interest at the rate of 1 percent per month or fraction thereof.

6. The total amount assessed pursuant to subsection 5 for a fiscal year must not be more than \$100,000, adjusted by the percentage change between January 1, 1991, and January 1 of the year in which the fees are assessed ~~in~~ in the Consumer Price Index (All Items) published by the United States Department of Labor.

7. The total amount assessed must be divided by the total number of patient days of care provided in the previous calendar year by the hospitals subject to the assessment. For each hospital, the assessment must be the result of this calculation multiplied by its number of patient days of care for the preceding calendar year.

**Sec. 5.** NRS 223.580 is hereby amended to read as follows:

223.580 On or before February 1 of each year, the Director shall submit a written report to the Governor, and to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committee or committees of the Legislature. The report must include, without limitation:

1. A statement setting forth the number and geographic origin of the written and telephonic inquiries received by the Office for Consumer Health Assistance and the issues to which those inquiries were related;

2. A statement setting forth the type of assistance provided to each consumer and injured employee who sought assistance from the Director, including, without limitation, the number of referrals made to the Attorney General pursuant to *paragraph (g) of* subsection ~~1~~ 1 of NRS 223.560;

3. A statement setting forth the disposition of each inquiry and complaint received by the Director; and

4. A statement setting forth the number of external reviews conducted by external review organizations pursuant to NRS 695G.241 to 695G.310, inclusive, and the disposition of each of those reviews as reported pursuant to NRS 695G.310.

**Sec. 6.** NRS 453.3639 is hereby amended to read as follows:

453.3639 1. Except as otherwise provided in subsection 3, a person who is located within or outside this State shall not, via the Internet, fill or refill a prescription drug if:

(a) The person has reasonable cause to believe that the prescription is being filled or refilled for a person in this State; and

(b) The prescription drug has not been lawfully imported into the United States.

2. Except as otherwise provided in subsection 3, a person who is located within or outside this State shall not, via the Internet, fill or refill a prescription drug if:

(a) The person has reasonable cause to believe that the prescription is being filled or refilled for a person in this State; and

(b) The prescription was not delivered to the person in accordance with all applicable state and federal laws, regulations and standards.

3. The provisions of this section do not prohibit a Canadian pharmacy which is licensed by the Board and which has been recommended by the Board pursuant to subsection 4 of NRS 639.2328 for inclusion on the Internet website established and maintained pursuant to *paragraph (i) of* subsection ~~¶ 1~~ of NRS 223.560 from providing prescription drugs through mail order service to residents of Nevada in the manner set forth in NRS 639.2328 to 639.23286, inclusive.

4. A person shall not knowingly aid another person in any act or transaction that violates any provision of this section.

5. Except as otherwise provided in subsection 6, a person who violates any provision of this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. A person who violates any provision of this section is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$100,000, if the substance or drug involved:

(a) Is classified in schedule I; or

(b) Proximately causes substantial bodily harm to or the death of the intended recipient of the substance or drug or any other person.

7. The court shall not grant probation to or suspend the sentence of a person punished pursuant to subsection 6.

8. A person may be prosecuted, convicted and punished for a violation of this section whether or not the person is prosecuted, convicted or punished for violating any other specific statute based upon the same act or transaction.

**Sec. 7.** NRS 639.230 is hereby amended to read as follows:

639.230 1. A person operating a business in this State shall not use the letters "Rx" or "RX" or the word "drug" or "drugs," "prescription" or "pharmacy," or similar words or words of similar import, without first having secured a license from the Board.

2. Each license must be issued to a specific person and for a specific location and is not transferable. The original license must be displayed on the licensed premises as provided in NRS 639.150. The original license and the fee required for

1 reissuance of a license must be submitted to the Board before the reissuance of the  
2 license.

3 3. If the owner of a pharmacy is a partnership or corporation, any change of  
4 partners or corporate officers must be reported to the Board at such a time as is  
5 required by a regulation of the Board.

6 4. Except as otherwise provided in subsection 6, in addition to the  
7 requirements for renewal set forth in NRS 639.180, every person holding a license  
8 to operate a pharmacy must satisfy the Board that the pharmacy is conducted  
9 according to law.

10 5. Any violation of any of the provisions of this chapter by a managing  
11 pharmacist or by personnel of the pharmacy under the supervision of the managing  
12 pharmacist is cause for the suspension or revocation of the license of the pharmacy  
13 by the Board.

14 6. The provisions of this section do not prohibit a Canadian pharmacy which  
15 is licensed by the Board and which has been recommended by the Board pursuant  
16 to subsection 4 of NRS 639.2328 for inclusion on the Internet website established  
17 and maintained pursuant to **paragraph (i) of** subsection ~~¶ 1~~ of NRS 223.560 from  
18 providing prescription drugs through mail order service to residents of Nevada in  
19 the manner set forth in NRS 639.2328 to 639.23286, inclusive.

20 **Sec. 8.** NRS 639.2328 is hereby amended to read as follows:

21 639.2328 1. Every pharmacy located outside Nevada that provides mail  
22 order service to or solicits or advertises for orders for drugs available with a  
23 prescription from a resident of Nevada must be licensed by the Board.

24 2. To be licensed or to renew a license, such a pharmacy must:

25 (a) Be licensed as a pharmacy, or the equivalent, by the state or country in  
26 which its dispensing facilities are located.

27 (b) Comply with all applicable federal laws, regulations and standards.

28 (c) Submit an application in the form furnished by the Board.

29 (d) Provide the following information to the Board:

30 (1) The name and address of the owner;

31 (2) The location of the pharmacy;

32 (3) The name of the pharmacist who is the managing pharmacist; and

33 (4) Any other information the Board deems necessary.

34 (e) Pay the fee required by regulation of the Board.

35 (f) Submit evidence satisfactory to the Board that the facility, records and  
36 operation of the pharmacy comply with the laws and regulations of the state or  
37 country in which the pharmacy is located.

38 (g) Submit certification satisfactory to the Board that the pharmacy complies  
39 with all lawful requests and directions from the regulatory board or licensing  
40 authority of the state or country in which the pharmacy is located relating to the  
41 shipment, mailing or delivery of drugs.

42 (h) Be certified by the Board pursuant to NRS 639.23288 if the pharmacy  
43 operates an Internet pharmacy.

44 3. In addition to the requirements of subsection 2, the Board may require such  
45 a pharmacy to be inspected by the Board.

46 4. The Board shall notify the Office for Consumer Health Assistance each  
47 time the Board licenses a Canadian pharmacy pursuant to this section and  
48 recommend that the Office for Consumer Health Assistance include each such  
49 pharmacy on the Internet website established and maintained pursuant to  
50 **paragraph (i) of** subsection ~~¶ 1~~ of NRS 223.560.

51 **Sec. 9.** NRS 639.23284 is hereby amended to read as follows:

52 639.23284 1. Every pharmacy located outside Nevada that provides mail  
53 order service to a resident of Nevada:

1 (a) Shall report to the Board any change of information that appears on its  
2 license and pay the fee required by regulation of the Board.

3 (b) Shall make available for inspection all pertinent records, reports,  
4 documents or other material or information required by the Board.

5 (c) As required by the Board, must be inspected by the Board or:

6 (1) The regulatory board or licensing authority of the state or country in  
7 which the pharmacy is located; or

8 (2) The Drug Enforcement Administration.

9 (d) As required by the Board, shall provide the following information  
10 concerning each prescription for a drug that is shipped, mailed or delivered to a  
11 resident of Nevada:

12 (1) The name of the patient;

13 (2) The name of the prescriber;

14 (3) The number of the prescription;

15 (4) The date of the prescription;

16 (5) The name of the drug;

17 (6) The symptom or purpose for which the drug is prescribed, if requested  
18 by the patient pursuant to NRS 639.2352; and

19 (7) The strength and quantity of the dose.

20 2. In addition to complying with the requirements of subsection 1, every  
21 Canadian pharmacy which is licensed by the Board and which has been  
22 recommended by the Board pursuant to subsection 4 of NRS 639.2328 for inclusion  
23 on the Internet website established and maintained pursuant to *paragraph (i) of*  
24 *subsection 1 of* NRS 223.560 that provides mail order service to a resident of  
25 Nevada shall not sell, distribute or furnish to a resident of this State:

26 (a) A controlled substance;

27 (b) A prescription drug that has not been approved by the federal Food and  
28 Drug Administration;

29 (c) A generic prescription drug that has not been approved by the federal Food  
30 and Drug Administration;

31 (d) A prescription drug for which the federal Food and Drug Administration  
32 has withdrawn or suspended its approval; or

33 (e) A quantity of prescription drugs at one time that includes more drugs than  
34 are prescribed to the patient as a 3-month supply of the drugs.

35 **Sec. 10.** This act becomes effective on July 1, 2009.