

ASSEMBLY BILL NO. 519—COMMITTEE ON WAYS AND MEANS

(ON BEHALF OF THE DIVISION OF BUDGET AND PLANNING)

MARCH 28, 2011

Referred to Committee on Ways and Means

SUMMARY—Makes various changes relating to the Office for Consumer Health Assistance. (BDR 18-1157)

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 health; transferring the Office for Consumer Health Assistance from the Office of the Governor to the Department of Health and Human Services; requiring the Director of the Department to appoint the Governor's Consumer Health Advocate to head the Office; including the Office of Minority Health within the Office for Consumer Health Assistance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law establishes an Office for Consumer Health Assistance within the
- 2 Office of the Governor and provides for the appointment of a Director of the Office
- 3 by the Governor. (NRS 223.500-223.580) **Sections 1-8** of this bill transfer the
- 4 Office for Consumer Health Assistance into the Department of Health and Human
- 5 Services. **Section 4** of this bill requires the Director of the Department to appoint
- 6 the Governor's Consumer Health Advocate to head the Office.
- 7 Existing law establishes an Office of Minority Health in the Department of
- 8 Health and Human Services. (NRS 232.467-232.484) **Sections 9-16** of this bill
- 9 transfer the Office of Minority Health into the Office for Consumer Health
- 10 Assistance, under the direction of the Governor's Consumer Health Advocate.



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

Section 1. Chapter 223 of NRS is hereby amended by adding
thereto a new section to read as follows:

*“Advocate” means the Governor’s Consumer Health Advocate
appointed pursuant to NRS 223.550.*

Sec. 2. NRS 223.500 is hereby amended to read as follows:
223.500 As used in NRS 223.500 to 223.580, inclusive, *and
section 1 of this act*, unless the context otherwise requires, the
words and terms defined in NRS 223.510 to 223.535, inclusive, *and
section 1 of this act* have the meanings ascribed to them in those
sections.

Sec. 3. NRS 223.520 is hereby amended to read as follows:
223.520 “Director” means the Director of the ~~{Office for
Consumer Health Assistance appointed pursuant to NRS 223.550.}~~
Department of Health and Human Services.

Sec. 4. NRS 223.550 is hereby amended to read as follows:
223.550 1. The Office for Consumer Health Assistance is
hereby established in the ~~{Office of the Governor.}~~ *Department of
Health and Human Services.* The ~~{Governor}~~ *Director* shall
appoint the ~~{Director.}~~ *Governor’s Consumer Health Advocate to
head the Office.* The ~~{Director}~~ *Advocate* must:

(a) Be ~~{~~
~~—— (1) A physician, as that term is defined in NRS 0.040;~~
~~—— (2) A registered nurse, as that term is defined in~~
~~NRS 632.019;~~
~~—— (3) An advanced practitioner of nursing, as that term is~~
~~defined in NRS 453.023; or~~
~~—— (4) A physician assistant, as that term is defined in NRS~~
~~630.015; and}~~ *selected on the basis of his or her training,*
experience, capacity and interest in health-related services.

(b) *Be a graduate of an accredited college or university. The
Director shall, to the extent practicable, give preference to a
person who has a degree in the field of health, social science,*
public administration or business administration or a related field.

(c) *Have not less than 3 years of experience in the
administration of health care or insurance programs.*

(d) Have expertise and experience in the field of advocacy.

2. The cost of carrying out the provisions of NRS 223.500 to
223.580, inclusive, must be paid as follows:

(a) That portion of the cost related to providing assistance to
consumers and injured employees concerning workers’
compensation must be paid from the assessments levied pursuant to
NRS 232.680.



(b) That portion of the cost related to the operation of the Bureau for Hospital Patients created pursuant to NRS 223.575 must be paid from the assessments levied pursuant to that section.

(c) That portion of the cost related to providing assistance to consumers in need of information or other facilitation regarding a prescription drug program may, to the extent money is available from this source, be paid from the proceeds of any gifts, grants or donations that are received by the ~~Director~~ Advocate for this purpose.

(d) That portion of the cost related to providing assistance to consumers in need of information concerning purchasing prescription drugs from Canadian pharmacies may, to the extent money is available from this source, be paid from the proceeds of any gifts, grants or donations that are received by the ~~Director~~ Advocate for this purpose.

(e) The remaining cost must be provided by direct legislative appropriation from the State General Fund and be paid out on claims as other claims against the State are paid.

Sec. 5. NRS 223.560 is hereby amended to read as follows:

223.560 The ~~Director~~ Advocate shall:

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

2. 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. 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) 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) 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. 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;



1 5. Establish and maintain a system to collect and maintain
2 information pertaining to the written and telephonic inquiries
3 received by the Office for Consumer Health Assistance;

4 6. Take such actions as are necessary to ensure public
5 awareness of the existence and purpose of the services provided by
6 the ~~{Director,}~~ *Advocate* pursuant to this section;

7 7. In appropriate cases and pursuant to the direction of the
8 ~~{Governor,}~~ *Advocate*, refer a complaint or the results of an
9 investigation to the Attorney General for further action;

10 8. Provide information to and applications for prescription drug
11 programs for consumers without insurance coverage for prescription
12 drugs or pharmaceutical services;

13 9. Establish and maintain an Internet website which includes:

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

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

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

26 10. Assist consumers with filing complaints against health
27 care facilities and health care professionals. As used in this
28 subsection, "health care facility" has the meaning ascribed to it in
29 NRS 162A.740.

30 **Sec. 6.** NRS 223.570 is hereby amended to read as follows:

31 223.570 1. The ~~{Director,}~~ *Advocate*, within the limits of
32 available money:

33 (a) Shall, to carry out the provisions of this section and NRS
34 223.560 and 223.580, employ at least two persons who have
35 experience in the field of workers' compensation, including, without
36 limitation, persons who have experience in administering claims or
37 programs related to policies of industrial insurance, representing
38 employees in contested claims relating to policies of industrial
39 insurance or advocating for the rights of injured employees; and

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

42 (1) Such persons in the unclassified service of the State as
43 the ~~{Director,}~~ *Advocate* determines to be necessary to carry out the
44 provisions of this section and NRS 223.560 and 223.580, including,



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1 without limitation, a provider of health care, as that term is defined
2 in NRS 449.581.

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

6 ➡ A person employed pursuant to the authority set forth in this
7 subsection must be qualified by training and experience to perform
8 the duties for which the ~~{Director}~~ Advocate employs that person.

9 2. The ~~{Director}~~ Advocate may:

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

15 (b) Adopt such regulations as the ~~{Director}~~ Advocate
16 determines to be necessary to carry out the provisions of this section
17 and NRS 223.560 and 223.580.

18 (c) Apply for any available grants, accept any gifts, grants or
19 donations and use any such gifts, grants or donations to aid the
20 Office for Consumer Health Assistance in carrying out its duties
21 pursuant to subsections 8 and 9 of NRS 223.560.

22 3. The ~~{Director}~~ Advocate and the ~~{Director's}~~ Advocate's
23 employees shall not have any conflict of interest relating to the
24 performance of their duties pursuant to this section and NRS
25 223.560 and 223.580. For the purposes of this subsection, a conflict
26 of interest shall be deemed to exist if the ~~{Director}~~ Advocate or
27 employee, or any person affiliated with the ~~{Director}~~ Advocate or
28 employee:

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

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

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

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

39 **Sec. 7.** NRS 223.575 is hereby amended to read as follows:

40 223.575 1. The Bureau for Hospital Patients is hereby created
41 within the Office for Consumer Health Assistance . ~~{in the Office of~~
42 ~~the Governor.}~~

43 2. The ~~{Director.}~~ Advocate:

44 (a) Is responsible for the operation of the Bureau, which must be
45 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~~ Advocate and the outcome of the mediation, arbitration or alternative means of dispute resolution.

3. The ~~Director~~ Advocate 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~~ Advocate may decline to hear a case that in the ~~Director's~~ Advocate's opinion is trivial, without merit or beyond the scope of his or her jurisdiction. The ~~Director~~ Advocate 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 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~~ Advocate determines appropriate for arbitration, mediation or other alternative means of dispute resolution.

4. The decision of the ~~Director~~ Advocate 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~~ Advocate 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 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,



1 the assessment must be the result of this calculation multiplied by its
2 number of patient days of care for the preceding calendar year.

3 **Sec. 8.** NRS 223.580 is hereby amended to read as follows:

4 223.580 On or before February 1 of each year, the ~~{Director}~~
5 *Advocate* shall submit a written report to the Governor, and to the
6 Director of the Legislative Counsel Bureau for transmittal to the
7 appropriate committee or committees of the Legislature. The report
8 must include, without limitation:

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

13 2. A statement setting forth the type of assistance provided to
14 each consumer and injured employee who sought assistance from
15 the ~~{Director,}~~ *Advocate*, including, without limitation, the number
16 of referrals made to the Attorney General pursuant to subsection 7
17 of NRS 223.560;

18 3. A statement setting forth the disposition of each inquiry and
19 complaint received by the ~~{Director,}~~ *Advocate*; and

20 4. A statement setting forth the number of external reviews
21 conducted by external review organizations pursuant to NRS
22 695G.241 to 695G.310, inclusive, and the disposition of each of
23 those reviews as reported pursuant to NRS 695G.310.

24 **Sec. 9.** Chapter 232 of NRS is hereby amended by adding
25 thereto a new section to read as follows:

26 *“Advocate” means the Governor’s Consumer Health Advocate*
27 *appointed pursuant to NRS 223.550.*

28 **Sec. 10.** NRS 232.467 is hereby amended to read as follows:

29 232.467 As used in NRS 232.467 to 232.484, inclusive, *and*
30 *section 9 of this act*, unless the context otherwise requires, the
31 words and terms defined in NRS 232.468 to 232.473, inclusive, *and*
32 *section 9 of this act* have the meanings ascribed to them in those
33 sections.

34 **Sec. 11.** NRS 232.473 is hereby amended to read as follows:

35 232.473 “Office” means the Office of Minority Health of the
36 *Office for Consumer Health Assistance of the* Department.

37 **Sec. 12.** NRS 232.474 is hereby amended to read as follows:

38 232.474 The Office of Minority Health is hereby created
39 within the *Office for Consumer Health Assistance of the*
40 Department. The purposes of the Office *of Minority Health* are to:

41 1. Improve the quality of health care services for members of
42 minority groups;

43 2. Increase access to health care services for members of
44 minority groups; and



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3. Disseminate information to and educate the public on matters concerning health care issues of interest to members of minority groups.

Sec. 12.5. NRS 232.477 is hereby amended to read as follows:

232.477 The Director shall , *to the extent that money is available for that purpose*, appoint *or designate* a Manager of the Office. The Manager must be appointed on the basis of his or her education, training, experience, demonstrated abilities and interest in the provision of health care services to members of minority groups and in related programs.

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. NRS 232.483 is hereby amended to read as follows:

232.483 1. ~~[Each]~~ *To the extent that money is available for that purpose, each* member of the Advisory Committee who is not an officer or employee of the State of Nevada is entitled to receive a salary of not more than \$80 per day, as fixed by the Manager in consultation with the Advisory Committee, for each day or portion of a day spent on the business of the Advisory Committee. Each member of the Advisory Committee who is an officer or employee of the State of Nevada serves without additional compensation. ~~[Each]~~ *To the extent that money is available for that purpose, each* member of the Advisory Committee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. A claim for a payment pursuant to this section must be made on a voucher approved by the Manager and paid as other claims against the State are paid.

2. Each member of the Advisory Committee who is an officer or employee of the State of Nevada or a local government must be relieved from his or her duties without loss of regular compensation so that he or she may prepare for and attend meetings of the Advisory Committee and perform any work necessary to carry out the duties of the Advisory Committee in the most timely manner practicable. A state agency or local governmental entity may not require an employee who is a member of the Advisory Committee to make up time or take annual vacation or compensatory time for the time that he or she is absent from work to carry out his or her duties as a member of the Advisory Committee.

Sec. 17. (Deleted by amendment.)

Sec. 18. NRS 439.930 is hereby amended to read as follows:

439.930 The Department shall adopt such regulations as it determines to be necessary or advisable to carry out the provisions of NRS 439.900 to 439.940, inclusive. Such regulations must provide for, without limitation:



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1 1. Notice to consumers stating that:

2 (a) Although the Department will strive to ensure that
3 consumers receive accurate information regarding pharmacies,
4 including, without limitation, the prices charged by those
5 pharmacies for the prescription drugs and generic equivalents that
6 are on the list prepared pursuant to NRS 439.905, the Department is
7 unable to guarantee the accuracy of such information;

8 (b) If a consumer follows an Internet link from the Internet
9 website maintained by the Department to an Internet website
10 maintained by a pharmacy, the Department is unable to guarantee
11 the accuracy of any information made available on the Internet
12 website maintained by the pharmacy; and

13 (c) The Department advises consumers to contact a pharmacy
14 directly to verify the accuracy of any information regarding the
15 pharmacy which is made available to consumers pursuant to NRS
16 439.900 to 439.940, inclusive;

17 2. Procedures adopted ~~[cooperatively with the Office of the~~
18 ~~Governor]~~ to direct consumers who have questions regarding the
19 program described in NRS 439.900 to 439.940, inclusive, to contact
20 the Office for Consumer Health Assistance ~~[in the Office]~~ of the
21 ~~[Governor;]~~ **Department;**

22 3. Provisions in accordance with which the Department will
23 allow an Internet link to the information provided by each pharmacy
24 pursuant to NRS 439.910 and made available on the Department's
25 Internet website to be placed on other Internet websites managed or
26 maintained by other persons and entities, including, without
27 limitation, Internet websites managed or maintained by:

28 (a) Other governmental entities, including, without limitation,
29 the State Board of Pharmacy and the Office of the Governor; and

30 (b) Nonprofit organizations and advocacy groups;

31 4. Procedures pursuant to which consumers and pharmacies
32 may report to the Department that information made available to
33 consumers pursuant to NRS 439.900 to 439.940, inclusive, is
34 inaccurate;

35 5. The form and manner in which pharmacies are to provide to
36 the Department the information described in NRS 439.910; and

37 6. Standards and criteria pursuant to which the Department
38 may remove from its Internet website information regarding a
39 pharmacy or an Internet link to the Internet website maintained by a
40 pharmacy, or both, if the Department determines that the pharmacy
41 has:

42 (a) Ceased to be licensed and in good standing pursuant to
43 chapter 639 of NRS; or

44 (b) Engaged in a pattern of providing to consumers information
45 that is false or would be misleading to reasonably informed persons.



- 1 **Sec. 19.** (Deleted by amendment.)
2 **Sec. 20.** This act becomes effective on July 1, 2011.

