

Amendment No. 132

Assembly Amendment to Assembly Bill No. 146 (BDR 18-179)

Proposed by: Assembly Committee on Government Affairs

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 underlining* is newly added transitory language.

CAF/JRS



Date: 4/4/2011

A.B. No. 146—Makes various changes relating to the Office for Consumer Health Assistance. (BDR 18-179)



ASSEMBLY BILL NO. 146—COMMITTEE ON
HEALTH AND HUMAN SERVICES

FEBRUARY 14, 2011

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to the Office for Consumer Health Assistance. (BDR 18-179)

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 the Office may render assistance; expanding the authority of the Director of the Office to adopt regulations; authorizing the Director to appoint a designee to mediate, arbitrate or resolve by alternative means certain disputes between patients and hospitals; 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, 223.560) **Section 1** of this bill adds to the definition of “consumer” a person who is in need of information or other assistance regarding his or her health care services or disputes in billing related to his or her medical claims.

Existing law authorizes the Director of the Office to adopt regulations relating to the duties the Director is required to perform and the annual report the Director must file with the Governor and the Director of the Legislative Counsel Bureau. (NRS 223.570) Existing law also authorizes the Director of the Office to hear, mediate, arbitrate or resolve by alternative means disputes between patients and hospitals. (NRS 223.575) Section 2 of this bill expands ~~this~~ the Director’s regulatory authority to authorize the Director to adopt regulations to ~~carry out any provisions relating to the Office, which would allow, for example, the adoption of regulations addressing,~~ establish procedures for hearing such disputes between patients and hospitals.

~~Existing law authorizes the Director to hear, mediate, arbitrate or resolve by alternative means of dispute resolution disputes between patients and hospitals. (NRS 223.575) Section 4 of this bill authorizes the Director to appoint a designee to hear, mediate, arbitrate or resolve such disputes in his or her place.~~

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; ~~(a)~~
3. May need information concerning purchasing prescription drugs from Canadian pharmacies ~~(b)~~; *or*

4. Is in need of information or other assistance regarding his or her health care services or disputes in billing related to his or her 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;

~~(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; and

~~(d)~~ (j) Assist consumers with filing complaints against health care facilities and health care professionals. As used in this subsection, "health care facility" has the meaning ascribed to it in NRS 162A.740.

2. The Director may adopt regulations to carry out the provisions of ~~NRS 223.500~~ NRS 223.560 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 the Director 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 that person.

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 the Director determines to be necessary to carry out the provisions of this section and NRS 223.560 and 223.580.

~~(b) Adopt such regulations as the Director 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 the Director's 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;

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

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

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

7 223.575 1. The Bureau for Hospital Patients is hereby created within the
8 Office for Consumer Health Assistance in the Office of the Governor.

9 2. The Director:

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

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

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

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

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

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

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

37 *↳ The Director's designee must be an employee of the State and, except for the*
38 *purposes of this subsection, must not be employed by, or otherwise associated*
39 *with, the Bureau or the Office for Consumer Health Assistance.*

40 4. The decision of the Director *or the Director's designee* is a final decision
41 for the purpose of judicial review.

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

48 6. The total amount assessed pursuant to subsection 5 for a fiscal year must
49 not be more than \$100,000 adjusted by the percentage change between January 1,
50 1991, and January 1 of the year in which the fees are assessed, in the Consumer
51 Price Index (All Items) published by the United States Department of Labor.

52 7. The total amount assessed must be divided by the total number of patient
53 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 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.

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

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

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

7 639.230 1. A person operating a business in this State shall not use the
8 letters "Rx" or "RX" or the word "drug" or "drugs," "prescription" or "pharmacy,"
9 or similar words or words of similar import, without first having secured a license
10 from the Board.

11 2. Each license must be issued to a specific person and for a specific location
12 and is not transferable. The original license must be displayed on the licensed
13 premises as provided in NRS 639.150. The original license and the fee required for
14 reissuance of a license must be submitted to the Board before the reissuance of the
15 license.

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

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

23 5. Any violation of any of the provisions of this chapter by a managing
24 pharmacist or by personnel of the pharmacy under the supervision of the managing
25 pharmacist is cause for the suspension or revocation of the license of the pharmacy
26 by the Board.

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

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

34 639.2328 1. Every pharmacy located outside Nevada that provides mail
35 order service to or solicits or advertises for orders for drugs available with a
36 prescription from a resident of Nevada must be licensed by the Board.

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

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

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

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

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

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

44 (2) The location of the pharmacy;

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

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

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

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

51 (g) Submit certification satisfactory to the Board that the pharmacy complies
52 with all lawful requests and directions from the regulatory board or licensing

1 authority of the state or country in which the pharmacy is located relating to the
2 shipment, mailing or delivery of drugs.

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

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

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

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

13 639.23284 1. Every pharmacy located outside Nevada that provides mail
14 order service to a resident of Nevada:

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

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

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

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

22 (2) The Drug Enforcement Administration.

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

26 (1) The name of the patient;

27 (2) The name of the prescriber;

28 (3) The number of the prescription;

29 (4) The date of the prescription;

30 (5) The name of the drug;

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

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

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

40 (a) A controlled substance;

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

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

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

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

49 **Sec. 10.** This act becomes effective on July 1, 2011.