

Amendment No. 573

Assembly Amendment to Assembly Bill No. 519 (BDR 18-1157)

Proposed by: Assembly Committee on Ways and Means

Amendment Box: Replaces Amendment No. 556.

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

ASSEMBLY ACTION		Initial and Date		SENATE ACTION	Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	Adopted	<input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	Concurred In	<input type="checkbox"/>
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	Receded	<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.

WR/SLP



Date: 5/9/2011

A.B. No. 519—Makes various changes relating to the Office for Consumer Health Assistance. (BDR 18-1157)



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.

~

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:

Existing law establishes an Office for Consumer Health Assistance within the Office of the Governor and provides for the appointment of a Director of the Office by the Governor. (NRS 223.500-223.580) **Sections 1-8** of this bill transfer the Office for Consumer Health Assistance into the Department of Health and Human Services. **Section 4** of this bill requires the Director of the Department to appoint the Governor’s Consumer Health Advocate to head the Office.

Existing law establishes an Office of Minority Health in the Department of Health and Human Services. (NRS 232.467-232.484) **Sections 9-16** of this bill transfer the Office of Minority Health into the Office for Consumer Health 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;

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

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

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

9. Establish and maintain an Internet website which includes:

(a) 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) 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) 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

10. 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.

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

2 223.570 1. The ~~{Director,}~~ **Advocate**, within the limits of available money:

3 (a) Shall, to carry out the provisions of this section and NRS 223.560 and
4 223.580, employ at least two persons who have experience in the field of workers'
5 compensation, including, without limitation, persons who have experience in
6 administering claims or programs related to policies of industrial insurance,
7 representing employees in contested claims relating to policies of industrial
8 insurance or advocating for the rights of injured employees; and

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

11 (1) Such persons in the unclassified service of the State as the ~~{Director,}~~
12 **Advocate** determines to be necessary to carry out the provisions of this section and
13 NRS 223.560 and 223.580, including, without limitation, a provider of health care,
14 as that term is defined in NRS 449.581.

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

18 ➤ A person employed pursuant to the authority set forth in this subsection must be
19 qualified by training and experience to perform the duties for which the ~~{Director,}~~
20 **Advocate** employs that person.

21 2. The ~~{Director,}~~ **Advocate** may:

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

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

28 (c) Apply for any available grants, accept any gifts, grants or donations and use
29 any such gifts, grants or donations to aid the Office for Consumer Health
30 Assistance in carrying out its duties pursuant to subsections 8 and 9 of NRS
31 223.560.

32 3. The ~~{Director,}~~ **Advocate** and the ~~{Director's,}~~ **Advocate's** employees shall
33 not have any conflict of interest relating to the performance of their duties pursuant
34 to this section and NRS 223.560 and 223.580. For the purposes of this subsection, a
35 conflict of interest shall be deemed to exist if the ~~{Director,}~~ **Advocate** or employee,
36 or any person affiliated with the ~~{Director,}~~ **Advocate** or employee:

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

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

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

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

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

47 223.575 1. The Bureau for Hospital Patients is hereby created within the
48 Office for Consumer Health Assistance. ~~{in the Office of the Governor.}~~

49 2. The ~~{Director,}~~ **Advocate**:

50 (a) Is responsible for the operation of the Bureau, which must be easily
51 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, the assessment must be the result of this calculation multiplied by its number of patient days of care for the preceding calendar year.

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

223.580 On or before February 1 of each year, the ~~Director~~ Advocate 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~~ Advocate, including, without limitation, the number of referrals made to the Attorney General pursuant to subsection 7 of NRS 223.560;

3. A statement setting forth the disposition of each inquiry and complaint received by the ~~[Director.] Advocate~~; 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. 9. Chapter 232 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. 10. NRS 232.467 is hereby amended to read as follows:

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

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

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

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

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

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

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

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. ~~[NRS 232.478 is hereby amended to read as follows:]~~

~~232.478 The [Manager] Advocate shall:~~

~~1. Ensure that the purposes of the Office are carried out;~~

~~2. Direct and supervise all the technical and administrative activities of the Office;~~

~~3. Attend the meetings of the Advisory Committee, serve as secretary at those meetings and keep minutes of those meetings;~~

~~4. Request and consider the advice of the Advisory Committee concerning matters of policy;~~

~~5. Serve as the contracting officer for the Office to receive money from the Federal Government or any other source; and~~

~~6. Act as liaison between the Office, members of minority groups, and public and private entities offering health care services primarily to those members or offering health care information of interest to those members.] (Deleted by amendment.)~~

Sec. 14. ~~[NRS 232.479 is hereby amended to read as follows:]~~

~~232.479 On or before March 1 of each odd-numbered year, the [Manager] Advocate shall submit a report to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature. The report must outline the manner in which the Office has accomplished its purposes during the biennium, including, without limitation, information concerning the activities,~~

findings and recommendations of the Office as they relate to health care services for members of minority groups and to health care issues of interest to those members.) **(Deleted by amendment.)**

Sec. 15. ~~{NRS 232.481 is hereby amended to read as follows:~~
~~232.481 1. The [Manager] Advocate may, within the limits of legislative appropriations and other available money, award a grant of money to a person for use consistent with the provisions of NRS 232.467 to 232.484, inclusive.~~

~~2. Before the [Manager] Advocate may award a grant pursuant to subsection 1, the [Manager] Advocate shall adopt by regulation:~~

~~(a) Procedures by which a person may apply for a grant from the [Manager] Advocate;~~

~~(b) Criteria that the [Manager] Advocate will consider in determining whether to award a grant; and~~

~~(c) Procedures by which the [Manager] Advocate will distribute any money that the Office receives pursuant to subsection 1 of NRS 232.476.)~~ **(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 [Advocate]~~ 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 [Advocate]~~ 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. ~~{NRS 232.484 is hereby amended to read as follows:~~

~~232.484 The Advisory Committee shall:~~

~~1. Advise the [Manager] Advocate on all matters concerning the manner in which the purposes of the Office are being carried out;~~

~~2. Review the manner in which the Office uses any gifts, grants, donations or appropriations to carry out the purposes of the Office and make recommendations; and~~

~~3. Review any reports to be submitted by the [Manager] Advocate including, without limitation, the report required pursuant to NRS 232.479, and make recommendations.)~~ **(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:

1. Notice to consumers stating that:

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

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

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

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

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

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

(b) Nonprofit organizations and advocacy groups;

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

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

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

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

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

Sec. 19. ~~{NRS 232.471 and 232.477 are hereby repealed.}~~ **(Deleted by amendment.)**

Sec. 20. This act becomes effective on July 1, 2011.

f

TEXT OF REPEALED SECTIONS

~~**232.471 "Manager" defined.** "Manager" means the Manager of the Office of Minority Health of the Department.~~

~~**232.477 Appointment of Manager; qualifications.** The Director shall appoint 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.~~