

SENATE BILL NO. 253—SENATOR HARDY

MARCH 17, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Requires certain policies of health insurance and health care plans to provide coverage for tobacco cessation treatments. (BDR 57-1052)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§ 12)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted-material] is material to be omitted.

AN ACT relating to insurance; requiring certain policies of health insurance and health care plans to provide coverage for tobacco cessation treatment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires certain public and private health care plans and policies
2 of insurance to provide coverage for certain procedures, including colorectal cancer
3 screenings, cytological screening tests and mammograms, in certain circumstances.
4 (NRS 287.027, 287.04335, 689A.04042, 689A.0405, 689B.0367, 689B.0374,
5 695B.1907, 695B.1912, 695C.1731, 695C.1735, 695G.168) Existing law also
6 requires employers to provide certain benefits to employees, including coverage for
7 the procedures required to be covered by insurers, if the employer provides health
8 benefits for its employees. (NRS 608.1555) This bill requires those public and
9 private health care plans and policies of insurance, other than the State Plan for
10 Medicaid, to also provide coverage for tobacco cessation treatment. The provisions
11 of this bill apply prospectively to any policy of insurance or health care plan issued
12 or renewed on or after July 1, 2012.



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

Section 1. NRS 687B.225 is hereby amended to read as follows:

687B.225 1. Except as otherwise provided in NRS 689A.0405, 689A.0413, 689A.044, 689A.0445, 689B.031, 689B.0313, 689B.0317, 689B.0374, 695B.1912, 695B.1914, 695B.1925, 695B.1942, 695C.1713, 695C.1735, 695C.1745, 695C.1751, 695G.170, 695G.171 and 695G.177, *and sections 2, 4, 6, 7 and 10 of this act*, any contract for group, blanket or individual health insurance or any contract by a nonprofit hospital, medical or dental service corporation or organization for dental care which provides for payment of a certain part of medical or dental care may require the insured or member to obtain prior authorization for that care from the insurer or organization. The insurer or organization shall:

(a) File its procedure for obtaining approval of care pursuant to this section for approval by the Commissioner; and

(b) Respond to any request for approval by the insured or member pursuant to this section within 20 days after it receives the request.

2. The procedure for prior authorization may not discriminate among persons licensed to provide the covered care.

Sec. 2. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A policy of health insurance must provide coverage for tobacco cessation treatment in accordance with the clinical practice guideline on "Treating Tobacco Use and Dependence: 2008 Update" published by the Public Health Service of the United States Department of Health and Human Services. Such coverage must provide for not less than two courses of treatment in a 1-year period. A course of treatment must include, without limitation:

(a) Not less than four sessions of counseling, which may be group or individual counseling and may be in person or by telephone; and

(b) Any prescription drug or over-the-counter drug which is approved by the United States Food and Drug Administration for the purpose of tobacco cessation.

2. Coverage provided under this section is not subject to any deductible, copayment, coinsurance or other such conditions for coverage that are required under the policy of health insurance.



1 **3. A policy of health insurance must not require an insured to**
2 **obtain prior authorization for any service provided pursuant to**
3 **subsection 1.**

4 **4. An insurer that delivers or issues for delivery a policy of**
5 **health insurance providing coverage for tobacco cessation**
6 **treatment required by subsection 1 shall include in the disclosure**
7 **required pursuant to NRS 689A.390 notice to each insured of the**
8 **availability of the benefits required by this section and shall**
9 **annually notify the insured of the availability of the benefits**
10 **required by this section.**

11 **5. A policy subject to the provisions of this chapter that is**
12 **delivered, issued for delivery or renewed on or after July 1, 2012,**
13 **has the legal effect of including the coverage required by this**
14 **section, and any provision of the policy which is in conflict with**
15 **this section is void.**

16 **Sec. 3.** NRS 689A.330 is hereby amended to read as follows:

17 689A.330 If any policy is issued by a domestic insurer for
18 delivery to a person residing in another state, and if the insurance
19 commissioner or corresponding public officer of that other state has
20 informed the Commissioner that the policy is not subject to approval
21 or disapproval by that officer, the Commissioner may by ruling
22 require that the policy meet the standards set forth in NRS 689A.030
23 to 689A.320, inclusive **[H]**, **and section 2 of this act.**

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

26 **1. A policy of group health insurance must provide coverage**
27 **for tobacco cessation treatment in accordance with the clinical**
28 **practice guideline on “Treating Tobacco Use and Dependence:**
29 **2008 Update” published by the Public Health Service of the**
30 **United States Department of Health and Human Services. Such**
31 **coverage must provide for not less than two courses of treatment**
32 **in a 1-year period. A course of treatment must include, without**
33 **limitation:**

34 **(a) Not less than four sessions of counseling, which may be**
35 **group or individual counseling and may be in person or by**
36 **telephone; and**

37 **(b) Any prescription drug or over-the-counter drug which is**
38 **approved by the United States Food and Drug Administration for**
39 **the purpose of tobacco cessation.**

40 **2. Coverage provided under this section is not subject to any**
41 **deductible, copayment, coinsurance or other such conditions for**
42 **coverage that are required under the policy of group health**
43 **insurance.**



1 3. A policy of group health insurance must not require an
2 insured to obtain prior authorization for any service provided
3 pursuant to subsection 1.

4 4. An insurer that delivers or issues for delivery a policy of
5 group health insurance providing coverage for tobacco cessation
6 treatment required by subsection 1 shall include in the disclosure
7 required pursuant to NRS 689B.027 notice to each insured of the
8 availability of the benefits required by this section and shall
9 annually notify the insured of the availability of the benefits
10 required by this section.

11 5. A policy subject to the provisions of this chapter that is
12 delivered, issued for delivery or renewed on or after July 1, 2012,
13 has the legal effect of including the coverage required by this
14 section, and any provision of the policy which is in conflict with
15 this section is void.

16 **Sec. 5.** Chapter 689C of NRS is hereby amended by adding
17 thereto a new section to read as follows:

18 1. A health benefit plan must provide coverage for tobacco
19 cessation treatment in accordance with the clinical practice
20 guideline on "Treating Tobacco Use and Dependence: 2008
21 Update" published by the Public Health Service of the United
22 States Department of Health and Human Services. Such coverage
23 must provide for not less than two courses of treatment in a 1-year
24 period. A course of treatment must include, without limitation:

25 (a) Not less than four sessions of counseling, which may be
26 group or individual counseling and may be in person or by
27 telephone; and

28 (b) Any prescription drug or over-the-counter drug which is
29 approved by the United States Food and Drug Administration for
30 the purpose of tobacco cessation.

31 2. Coverage provided under this section is not subject to any
32 deductible, copayment, coinsurance or other such conditions for
33 coverage that are required under the health benefit plan.

34 3. A health benefit plan must not require an insured to obtain
35 prior authorization for any service provided pursuant to
36 subsection 1.

37 4. An insurer that delivers or issues for delivery a health
38 benefit plan providing coverage for tobacco cessation treatment
39 required by subsection 1 shall include in the disclosure required
40 pursuant to NRS 689C.270 notice to each insured of the
41 availability of the benefits required by this section and shall
42 annually notify the insured of the availability of the benefits
43 required by this section.

44 5. A health benefit plan subject to the provisions of this
45 chapter which is delivered, issued for delivery or renewed on or



1 *after July 1, 2012, has the legal effect of including the coverage*
2 *required by this section, and any provision of the policy which is*
3 *in conflict with this section is void.*

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

6 *1. A policy of health insurance issued by a hospital or*
7 *medical services corporation must provide coverage for tobacco*
8 *cessation treatment in accordance with the clinical practice*
9 *guideline on "Treating Tobacco Use and Dependence: 2008*
10 *Update" published by the Public Health Service of the United*
11 *States Department of Health and Human Services. Such coverage*
12 *must provide for not less than two courses of treatment in a 1-year*
13 *period. A course of treatment must include, without limitation:*

14 *(a) Not less than four sessions of counseling, which may be*
15 *group or individual counseling and may be in person or by*
16 *telephone; and*

17 *(b) Any prescription drug or over-the-counter drug which is*
18 *approved by the United States Food and Drug Administration for*
19 *the purpose of tobacco cessation.*

20 *2. Coverage provided under this section is not subject to any*
21 *deductible, copayment, coinsurance or other such conditions for*
22 *coverage that are required under the policy.*

23 *3. A corporation that provides health insurance shall not*
24 *require an insured to obtain prior authorization for any service*
25 *provided pursuant to subsection 1.*

26 *4. A corporation that delivers or issues for delivery a policy of*
27 *health insurance providing coverage for tobacco cessation*
28 *treatment required by subsection 1 shall include in the disclosure*
29 *required pursuant to NRS 695B.172 notice to each insured of the*
30 *availability of the benefits required by this section and shall*
31 *annually notify the insured of the availability of the benefits*
32 *required by this section.*

33 *5. A policy of health insurance subject to the provisions of*
34 *this chapter which is delivered, issued for delivery or renewed on*
35 *or after July 1, 2012, has the legal effect of including the coverage*
36 *required by this section, and any provision of the policy which is*
37 *in conflict with this section is void.*

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

40 *1. A health care plan issued by a health maintenance*
41 *organization must provide coverage for tobacco cessation*
42 *treatment in accordance with the clinical practice guideline on*
43 *"Treating Tobacco Use and Dependence: 2008 Update" published*
44 *by the Public Health Service of the United States Department of*
45 *Health and Human Services. Such coverage must provide for not*



1 *less than two courses of treatment in a 1-year period. A course of*
2 *treatment must include, without limitation:*

3 (a) *Not less than four sessions of counseling, which may be*
4 *group or individual counseling and may be in person or by*
5 *telephone; and*

6 (b) *Any prescription drug or over-the-counter drug which is*
7 *approved by the United States Food and Drug Administration for*
8 *the purpose of tobacco cessation.*

9 2. *Coverage provided under this section is not subject to any*
10 *deductible, copayment, coinsurance or other such conditions for*
11 *coverage that are required under the health care plan.*

12 3. *A health care plan must not require an insured to obtain*
13 *prior authorization for any service provided pursuant to*
14 *subsection 1.*

15 4. *A health maintenance organization that delivers or issues*
16 *for delivery a health care plan providing coverage for tobacco*
17 *cessation treatment required by subsection 1 shall include in the*
18 *disclosure required pursuant to NRS 695C.193 notice to each*
19 *insured of the availability of the benefits required by this section*
20 *and shall annually notify the insured of the availability of the*
21 *benefits required by this section.*

22 5. *Any evidence of coverage subject to the provisions of this*
23 *chapter that is delivered, issued for delivery or renewed on or after*
24 *July 1, 2012, has the legal effect of including the coverage*
25 *required by this section, and any provision of the evidence of*
26 *coverage which is in conflict with this section is void.*

27 **Sec. 8.** NRS 695C.050 is hereby amended to read as follows:

28 695C.050 1. Except as otherwise provided in this chapter or
29 in specific provisions of this title, the provisions of this title are not
30 applicable to any health maintenance organization granted a
31 certificate of authority under this chapter. This provision does not
32 apply to an insurer licensed and regulated pursuant to this title
33 except with respect to its activities as a health maintenance
34 organization authorized and regulated pursuant to this chapter.

35 2. Solicitation of enrollees by a health maintenance
36 organization granted a certificate of authority, or its representatives,
37 must not be construed to violate any provision of law relating to
38 solicitation or advertising by practitioners of a healing art.

39 3. Any health maintenance organization authorized under this
40 chapter shall not be deemed to be practicing medicine and is exempt
41 from the provisions of chapter 630 of NRS.

42 4. The provisions of NRS 695C.110, 695C.125, 695C.1691,
43 695C.1693, 695C.170 to 695C.173, inclusive, *and section 7 of this*
44 *act*, 695C.1733 to 695C.200, inclusive, 695C.250 and 695C.265 do
45 not apply to a health maintenance organization that provides health



1 care services through managed care to recipients of Medicaid under
2 the State Plan for Medicaid or insurance pursuant to the Children's
3 Health Insurance Program pursuant to a contract with the Division
4 of Health Care Financing and Policy of the Department of Health
5 and Human Services. This subsection does not exempt a health
6 maintenance organization from any provision of this chapter for
7 services provided pursuant to any other contract.

8 5. The provisions of NRS 695C.1694, 695C.1695 and
9 695C.1731 apply to a health maintenance organization that provides
10 health care services through managed care to recipients of Medicaid
11 under the State Plan for Medicaid.

12 **Sec. 9.** NRS 695C.330 is hereby amended to read as follows:

13 695C.330 1. The Commissioner may suspend or revoke any
14 certificate of authority issued to a health maintenance organization
15 pursuant to the provisions of this chapter if the Commissioner finds
16 that any of the following conditions exist:

17 (a) The health maintenance organization is operating
18 significantly in contravention of its basic organizational document,
19 its health care plan or in a manner contrary to that described in and
20 reasonably inferred from any other information submitted pursuant
21 to NRS 695C.060, 695C.070 and 695C.140, unless any amendments
22 to those submissions have been filed with and approved by the
23 Commissioner;

24 (b) The health maintenance organization issues evidence of
25 coverage or uses a schedule of charges for health care services
26 which do not comply with the requirements of NRS 695C.1691 to
27 695C.200, inclusive, *and section 7 of this act*, or 695C.207;

28 (c) The health care plan does not furnish comprehensive health
29 care services as provided for in NRS 695C.060;

30 (d) The State Board of Health certifies to the Commissioner that
31 the health maintenance organization:

32 (1) Does not meet the requirements of subsection 2 of NRS
33 695C.080; or

34 (2) Is unable to fulfill its obligations to furnish health care
35 services as required under its health care plan;

36 (e) The health maintenance organization is no longer financially
37 responsible and may reasonably be expected to be unable to meet its
38 obligations to enrollees or prospective enrollees;

39 (f) The health maintenance organization has failed to put into
40 effect a mechanism affording the enrollees an opportunity to
41 participate in matters relating to the content of programs pursuant to
42 NRS 695C.110;

43 (g) The health maintenance organization has failed to put into
44 effect the system required by NRS 695C.260 for:



(1) Resolving complaints in a manner reasonably to dispose of valid complaints; and

(2) Conducting external reviews of final adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, inclusive;

(h) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(i) The continued operation of the health maintenance organization would be hazardous to its enrollees;

(j) The health maintenance organization fails to provide the coverage required by NRS 695C.1691; or

(k) The health maintenance organization has otherwise failed to comply substantially with the provisions of this chapter.

2. A certificate of authority must be suspended or revoked only after compliance with the requirements of NRS 695C.340.

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of that suspension, enroll any additional groups or new individual contracts, unless those groups or persons were contracted for before the date of suspension.

4. If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation of any kind. The Commissioner may, by written order, permit such further operation of the organization as the Commissioner may find to be in the best interest of enrollees to the end that enrollees are afforded the greatest practical opportunity to obtain continuing coverage for health care.

Sec. 10. Chapter 695G of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health care plan issued by a managed care organization must provide coverage for tobacco cessation treatment in accordance with the clinical practice guideline on "Treating Tobacco Use and Dependence: 2008 Update" published by the Public Health Service of the United States Department of Health and Human Services. Such coverage must provide for not less than two courses of treatment in a 1-year period. A course of treatment must include, without limitation:

(a) Not less than four sessions of counseling, which may be group or individual counseling and may be in person or by telephone; and



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1 ***(b) Any prescription drug or over-the-counter drug which is***
2 ***approved by the United States Food and Drug Administration for***
3 ***the purpose of tobacco cessation.***

4 ***2. Coverage provided under this section is not subject to any***
5 ***deductible, copayment, coinsurance or other such conditions for***
6 ***coverage that are required under the health care plan.***

7 ***3. A health care plan must not require an insured to obtain***
8 ***prior authorization for any service provided pursuant to***
9 ***subsection 1.***

10 ***4. A managed care organization that delivers or issues for***
11 ***delivery evidence of coverage for a health care plan providing***
12 ***coverage for tobacco cessation treatment required by subsection 1***
13 ***shall include in the disclosure required pursuant to NRS 695G.173***
14 ***notice to each insured of the availability of the benefits required***
15 ***by this section and shall annually notify the insured of the***
16 ***availability of the benefits required by this section.***

17 ***5. Evidence of coverage for a health care plan subject to the***
18 ***provisions of this chapter which is delivered, issued for delivery or***
19 ***renewed on or after July 1, 2012, has the legal effect of including***
20 ***the coverage required by this section, and any provision of the***
21 ***health care plan which is in conflict with this section is void.***

22 **Sec. 11.** NRS 695G.090 is hereby amended to read as follows:

23 695G.090 1. Except as otherwise provided in subsection 3,
24 the provisions of this chapter apply to each organization and insurer
25 that operates as a managed care organization and may include,
26 without limitation, an insurer that issues a policy of health
27 insurance, an insurer that issues a policy of individual or group
28 health insurance, a carrier serving small employers, a fraternal
29 benefit society, a hospital or medical service corporation and a
30 health maintenance organization.

31 2. In addition to the provisions of this chapter, each managed
32 care organization shall comply with:

33 (a) The provisions of chapter 686A of NRS, including all
34 obligations and remedies set forth therein; and

35 (b) Any other applicable provision of this title.

36 3. The provisions of NRS 695G.164, 695G.1645, 695G.200 to
37 695G.230, inclusive, and 695G.430 ***and section 10 of this act*** do
38 not apply to a managed care organization that provides health care
39 services to recipients of Medicaid under the State Plan for Medicaid
40 or insurance pursuant to the Children's Health Insurance Program
41 pursuant to a contract with the Division of Health Care Financing
42 and Policy of the Department of Health and Human Services. This
43 subsection does not exempt a managed care organization from any
44 provision of this chapter for services provided pursuant to any other
45 contract.



1 **Sec. 12.** Chapter 287 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *The governing body of any county, school district,*
4 *municipal corporation, political subdivision, public corporation or*
5 *other local governmental agency of the State of Nevada that*
6 *provides health insurance through a plan of self-insurance must*
7 *provide coverage for tobacco cessation treatment in accordance*
8 *with the clinical practice guideline on “Treating Tobacco Use and*
9 *Dependence: 2008 Update” published by the Public Health*
10 *Service of the United States Department of Health and Human*
11 *Services. Such coverage must provide for not less than two courses*
12 *of treatment in a 1-year period. A course of treatment must*
13 *include, without limitation:*

14 (a) *Not less than four sessions of counseling, which may be*
15 *group or individual counseling and may be in person or by*
16 *telephone; and*

17 (b) *Any prescription drug or over-the-counter drug which is*
18 *approved by the United States Food and Drug Administration for*
19 *the purpose of tobacco cessation.*

20 2. *Coverage provided under this section is not subject to the*
21 *same deductible, copayment, coinsurance or other such conditions*
22 *for coverage that are required under the plan of self-insurance.*

23 3. *A plan of self-insurance must not require a participant to*
24 *obtain prior authorization for any service provided pursuant to*
25 *subsection 1.*

26 4. *A plan of self-insurance providing coverage for tobacco*
27 *cessation treatment required by subsection 1 must include in the*
28 *summary required pursuant to NRS 287.043 notice to each*
29 *participant of the availability of the benefits required by*
30 *subsection 1.*

31 5. *A plan of self-insurance described in subsection 1 which is*
32 *delivered, issued for delivery or renewed on or after July 1, 2012,*
33 *has the legal effect of including the coverage required by this*
34 *section, and any provision of the plan of self-insurance which is in*
35 *conflict with this section is void.*

36 **Sec. 13.** NRS 287.04335 is hereby amended to read as
37 follows:

38 287.04335 If the Board provides health insurance through a
39 plan of self-insurance, it shall comply with the provisions of NRS
40 689B.255, 695G.150, 695G.160, 695G.164, 695G.1645, 695G.170,
41 695G.171, 695G.173, 695G.177, 695G.200 to 695G.230, inclusive,
42 695G.241 to 695G.310, inclusive, and 695G.405, *and section 10 of*
43 *this act*, in the same manner as an insurer that is licensed pursuant to
44 title 57 of NRS is required to comply with those provisions.



- 1 **Sec. 14.** The provisions of NRS 354.599 do not apply to any
2 additional expenses of a local government that are related to the
3 provisions of this act.
4 **Sec. 15.** This act becomes effective on July 1, 2012.

