

SENATE BILL NO. 328—SENATORS FARLEY,
HARDY AND HARRIS

MARCH 16, 2015

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to policies of health insurance. (BDR 57-794)

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

CONTAINS UNFUNDED MANDATE (§ 23)
(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 the Commissioner of Insurance to adopt regulations prescribing a standardized format for the online posting of drug formularies; requiring certain insurers to make certain information regarding drug formularies available to consumers; requiring the Commissioner to make links to such formularies and other information available online; requiring certain insurers issuing policies of health insurance and health care plans which provide coverage for mental health services to provide certain information online; requiring links to formularies to be posted on the Silver State Health Insurance Exchange; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law requires certain public and private policies of insurance and health
- 2 care plans to inform customers if a drug formulary is used and to make that
- 3 formulary available upon request. (NRS 689A.405, 689B.0283, 689C.281,
- 4 695A.255, 695B.176, 695C.1703, 695F.153, 695G.163) **Section 1** of this bill
- 5 requires that the Commissioner of Insurance create a standardized format for online
- 6 posting of drug formularies and post links to certain drug formularies and other
- 7 information on his or her Internet website. **Section 4** of this bill requires certain
- 8 insurers to post their formularies online. **Sections 2, 5, 7, 10, 12, 14, 18 and 20** of
- 9 this bill require certain public and private policies of insurance and health care



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plans to make certain information regarding mental health coverage and services available online. **Section 22** of this bill requires the Silver State Health Insurance Exchange to provide links on its Internet website to the drug formularies of certain qualified plans offered for sale through the Exchange. Finally, **section 26** of this bill repeals a section of NRS made redundant by changes in this bill.

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

Section 1. Chapter 679B of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commissioner shall adopt regulations setting forth a standardized format for the display and verification of any pharmaceutical formulary data included in certain individual policies of health insurance offered by an insurer pursuant to NRS 689A.405 on an Internet website maintained by the insurer. Such regulations must require, without limitation:

(a) Except as otherwise provided in paragraph (b), that the Internet website of such an insurer provide the ability to search formulary data by specific drug, if possible, and display consumer cost-sharing amounts in dollar ranges and plan tiers.

(b) If such an insurer is not able to comply with the requirements of paragraph (a), that the insurer carrier display consumer cost-sharing amounts in dollar ranges and plan tiers on the identification card of each insured. Providing such information in an attachment or mailing does not satisfy the requirements of this paragraph.

(c) That the Internet website of such an insurer include, without limitation, information that a previously prescribed and covered drug which is no longer on the formulary may be covered under the provisions of NRS 689A.04045.

(d) That the Internet website of such an insurer include, without limitation, a notice that the presence of a particular drug on the formulary is not a guarantee that an insured will be prescribed that drug for a particular medical condition.

2. The Commissioner shall provide direct links on his or her Internet website to the information posted pursuant to subsection 1 on the Internet website of an insurer. Such links must be posted in a manner that is easily accessible to the public, does not require a person to log in using a username or password or provide any personally identifiable information.

3. The Commissioner may, to the extent money is available for that purpose, expend money to carry out the provisions of subsection 2.



1 **4. As used in this section, "formulary" means a complete list**
2 **of prescription drugs eligible for coverage under the policy's**
3 **prescription benefit and medical benefit.**

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

6 **1. An insurer who offers or issues a policy of health**
7 **insurance which provides coverage for mental health services**
8 **shall post and update, as needed, on the Internet website of the**
9 **insurer:**

10 **(a) A telephone number that an insured or provider may call,**
11 **during normal business hours, for assistance in obtaining**
12 **information regarding coverage for mental health services;**

13 **(b) A detailed summary setting forth the manner in which the**
14 **insurer reviews and authorizes, approves, modifies or denies**
15 **requests or claims for mental health services, including, without**
16 **limitation, any procedure for an appeal, grievance or independent**
17 **review; and**

18 **(c) A list of providers of mental health services or instructions**
19 **on how to obtain the list.**

20 **2. The information specified in subsection 1 must also be**
21 **made available to an insured upon request.**

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

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

30 **Sec. 4.** NRS 689A.405 is hereby amended to read as follows:

31 689A.405 1. An insurer that offers or issues a policy of
32 health insurance which provides coverage for prescription drugs
33 shall include with any summary, certificate or evidence of that
34 coverage provided to an insured, notice of whether a formulary is
35 used and, if so, of the opportunity to secure information regarding
36 the formulary from the insurer pursuant to subsection 2. The notice
37 required by this subsection must:

38 **(a) Be in a language that is easily understood and in a format**
39 **that is easy to understand;**

40 **(b) Include an explanation of what a formulary is; and**

41 **(c) If a formulary is used, include:**

42 **(1) An explanation of:**

43 **(I) How often the contents of the formulary are reviewed;**

44 **and**



(II) The procedure and criteria for determining which prescription drugs are included in and excluded from the formulary; and

(2) The telephone number of the insurer for making a request for information regarding the formulary pursuant to subsection 2.

2. If an insurer offers or issues a policy of health insurance which provides coverage for prescription drugs and a formulary is used, the insurer shall:

(a) Provide to any insured or participating provider of health care, upon request:

(1) Information regarding whether a specific drug is included in the formulary.

(2) Access to the most current list of prescription drugs in the formulary, organized by major therapeutic category, with an indication of whether any listed drugs are preferred over other listed drugs. If more than one formulary is maintained, the insurer shall notify the requester that a choice of formulary lists is available.

(b) Notify each person who requests information regarding the formulary, that the inclusion of a drug in the formulary does not guarantee that a provider of health care will prescribe that drug for a particular medical condition.

(c) Post and update, as needed, each formulary on the Internet website of the insurer in a manner that is easily accessible to the public and is in accordance with regulations adopted by the Commissioner pursuant to section 1 of this act.

(d) Provide each formulary to the Commissioner.

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

1. An insurer who offers or issues a policy of group health insurance which provides coverage for mental health services shall post and update, as needed, on the Internet website of the insurer:

(a) A telephone number that an insured or provider may call, during normal business hours, for assistance in obtaining information regarding coverage for mental health services;

(b) A detailed summary setting forth the manner in which the insurer reviews and authorizes, approves, modifies or denies requests or claims for mental health services, including, without limitation, any procedure for an appeal, grievance or independent review; and

(c) A list of providers of mental health services or instructions on how to obtain the list.

2. The information specified in subsection 1 must also be made available to an insured upon request.

Sec. 6. (Deleted by amendment.)



Sec. 7. Chapter 689C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A carrier who offers or issues a health benefit plan which provides coverage for mental health services shall post and update, as needed, on the Internet website of the carrier:

(a) A telephone number that an insured or provider may call, during normal business hours, for assistance in obtaining information regarding coverage for mental health services;

(b) A detailed summary setting forth the manner in which the carrier reviews and authorizes, approves, modifies or denies requests or claims for mental health services, including, without limitation, any procedure for an appeal, grievance or independent review; and

(c) A list of providers of mental health services or instructions on how to obtain the list.

2. The information specified in subsection 1 must also be made available to an insured upon request.

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 689C.425 is hereby amended to read as follows:

689C.425 A voluntary purchasing group and any contract issued to such a group pursuant to NRS 689C.360 to 689C.600, inclusive, are subject to the provisions of NRS 689C.015 to 689C.355, inclusive, **and section 7 of this act** to the extent applicable and not in conflict with the express provisions of NRS 687B.408 and 689C.360 to 689C.600, inclusive.

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

1. A society that offers or issues a benefit contract which provides coverage for mental health services shall post and update, as needed, on the Internet website of the society:

(a) A telephone number that a benefit member or provider may call, during normal business hours, for assistance in obtaining information regarding coverage for mental health services;

(b) A detailed summary setting forth the manner in which the society reviews and authorizes, approves, modifies or denies requests or claims for mental health services, including, without limitation, any procedure for an appeal, grievance or independent review; and

(c) A list of providers of mental health services or instructions on how to obtain the list.

2. The information specified in subsection 1 must also be made available to a benefit member upon request.

Sec. 11. (Deleted by amendment.)



Sec. 12. Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A hospital or medical service corporation that offers or issues a policy of health insurance which provides coverage for mental health services shall post and update, as needed, on the Internet website of the hospital or medical service corporation:

(a) A telephone number that an insured or provider may call, during normal business hours, for assistance in obtaining information regarding coverage for mental health services;

(b) A detailed summary setting forth the manner in which the hospital or medical service corporation reviews and authorizes, approves, modifies or denies requests or claims for mental health services, including, without limitation, any procedure for an appeal, grievance or independent review; and

(c) A list of providers of mental health services or instructions on how to obtain the list.

2. The information specified in subsection 1 must also be made available to an insured upon request.

Sec. 13. (Deleted by amendment.)

Sec. 14. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health maintenance organization that offers or issues a health care plan which provides coverage for mental health services shall post and update, as needed, on the Internet website of the health maintenance organization:

(a) A telephone number that an enrollee or provider may call, during normal business hours, for assistance in obtaining information regarding coverage for mental health services;

(b) A detailed summary setting forth the manner in which the health maintenance organization reviews and authorizes, approves, modifies or denies requests or claims for mental health services, including, without limitation, any procedure for an appeal, grievance or independent review; and

(c) A list of providers of mental health services or instructions on how to obtain the list.

2. The information specified in subsection 1 must also be made available to an enrollee upon request.

Sec. 15. NRS 695C.050 is hereby amended to read as follows:

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



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

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

4. The provisions of NRS 695C.110, 695C.125, 695C.1691, 695C.1693, 695C.170 to 695C.173, inclusive, 695C.1733 to 695C.200, inclusive, and 695C.265 do not apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt a health maintenance organization from any provision of this chapter for services provided pursuant to any other contract.

5. The provisions of NRS 695C.1694, 695C.1695 and 695C.1731 *and section 14 of this act* apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid.

Sec. 16. (Deleted by amendment.)

Sec. 17. NRS 695C.330 is hereby amended to read as follows:

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

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

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of NRS 695C.1691 to 695C.200, inclusive, *and section 14 of this act* or 695C.207;

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

(d) The Commissioner certifies that the health maintenance organization:

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



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

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

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

(g) The health maintenance organization has failed to put into 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 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. 18. Chapter 695F of NRS is hereby amended by adding thereto a new section to read as follows:

1. A prepaid limited health service organization that offers or issues evidence of coverage which provides coverage for mental health services shall post and update, as needed, on the Internet website of the prepaid limited health service organization:

(a) A telephone number that an enrollee or provider may call, during normal business hours, for assistance in obtaining information regarding coverage for mental health services;

(b) A detailed summary setting forth the manner in which the prepaid limited health service organization reviews and authorizes, approves, modifies or denies requests or claims for mental health services, including, without limitation, any procedure for an appeal, grievance or independent review; and

(c) A list of providers of mental health services or instructions on how to obtain the list.

2. The information specified in subsection 1 must also be made available to an enrollee upon request.

Sec. 19. (Deleted by amendment.)

Sec. 20. Chapter 695G of NRS is hereby amended by adding thereto a new section to read as follows:

1. A managed care organization that offers or issues a health care plan which provides coverage for mental health services shall post and update, as needed, on the Internet website of the managed care organization:

(a) A telephone number that an insured or provider may call, during normal business hours, for assistance in obtaining information regarding coverage for mental health services;

(b) A detailed summary setting forth the manner in which the managed care organization reviews and authorizes, approves, modifies or denies requests or claims for mental health services, including, without limitation, any procedure for an appeal, grievance or independent review; and

(c) A list of providers of mental health services or instructions on how to obtain the list.

2. The information specified in subsection 1 must also be made available to an insured upon request.

Sec. 21. (Deleted by amendment.)

Sec. 22. Chapter 695I of NRS is hereby amended by adding thereto a new section to read as follows:

The Board shall ensure that the Internet website for the Exchange provides direct links to the information posted pursuant to NRS 689A.405 and section 1 of this act for any qualified health plan offered through the Exchange, if applicable.



Sec. 23. NRS 287.010 is hereby amended to read as follows:

287.010 1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada may:

(a) Adopt and carry into effect a system of group life, accident or health insurance, or any combination thereof, for the benefit of its officers and employees, and the dependents of officers and employees who elect to accept the insurance and who, where necessary, have authorized the governing body to make deductions from their compensation for the payment of premiums on the insurance.

(b) Purchase group policies of life, accident or health insurance, or any combination thereof, for the benefit of such officers and employees, and the dependents of such officers and employees, as have authorized the purchase, from insurance companies authorized to transact the business of such insurance in the State of Nevada, and, where necessary, deduct from the compensation of officers and employees the premiums upon insurance and pay the deductions upon the premiums.

(c) Provide group life, accident or health coverage through a self-insurance reserve fund and, where necessary, deduct contributions to the maintenance of the fund from the compensation of officers and employees and pay the deductions into the fund. The money accumulated for this purpose through deductions from the compensation of officers and employees and contributions of the governing body must be maintained as an internal service fund as defined by NRS 354.543. The money must be deposited in a state or national bank or credit union authorized to transact business in the State of Nevada. Any independent administrator of a fund created under this section is subject to the licensing requirements of chapter 683A of NRS, and must be a resident of this State. Any contract with an independent administrator must be approved by the Commissioner of Insurance as to the reasonableness of administrative charges in relation to contributions collected and benefits provided. The provisions of NRS 687B.408, 689B.030 to 689B.050, inclusive, **and section 5 of this act**, and 689B.287 apply to coverage provided pursuant to this paragraph.

(d) Defray part or all of the cost of maintenance of a self-insurance fund or of the premiums upon insurance. The money for contributions must be budgeted for in accordance with the laws governing the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada.



2. If a school district offers group insurance to its officers and employees pursuant to this section, members of the board of trustees of the school district must not be excluded from participating in the group insurance. If the amount of the deductions from compensation required to pay for the group insurance exceeds the compensation to which a trustee is entitled, the difference must be paid by the trustee.

3. In any county in which a legal services organization exists, the governing body of the county, or of any school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada in the county, may enter into a contract with the legal services organization pursuant to which the officers and employees of the legal services organization, and the dependents of those officers and employees, are eligible for any life, accident or health insurance provided pursuant to this section to the officers and employees, and the dependents of the officers and employees, of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency.

4. If a contract is entered into pursuant to subsection 3, the officers and employees of the legal services organization:

(a) Shall be deemed, solely for the purposes of this section, to be officers and employees of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency with which the legal services organization has contracted; and

(b) Must be required by the contract to pay the premiums or contributions for all insurance which they elect to accept or of which they authorize the purchase.

5. A contract that is entered into pursuant to subsection 3:

(a) Must be submitted to the Commissioner of Insurance for approval not less than 30 days before the date on which the contract is to become effective.

(b) Does not become effective unless approved by the Commissioner.

(c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.

6. As used in this section, "legal services organization" means an organization that operates a program for legal aid and receives money pursuant to NRS 19.031.

Sec. 24. NRS 287.04335 is hereby amended to read as follows:

287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS 689B.255, 695G.150, 695G.160, 695G.164, 695G.1645, 695G.167, 695G.170, 695G.171, 695G.173, 695G.177, 695G.200 to 695G.230,



1 inclusive, 695G.241 to 695G.310, inclusive, and 695G.405, *and*
2 *section 20 of this act* in the same manner as an insurer that is
3 licensed pursuant to title 57 of NRS is required to comply with those
4 provisions.

5 **Sec. 25.** The provisions of NRS 354.599 do not apply to any
6 additional expenses of a local government that are related to the
7 provisions of this act.

8 **Sec. 25.5.** The Commissioner of Insurance shall, for the 2017
9 plan year, adopt the regulations required by section 1 of this act not
10 later than February 1, 2016.

11 **Sec. 26.** NRS 689C.455 is hereby repealed.

12 **Sec. 27.** This act becomes effective:

13 1. Upon passage and approval for the purpose of adopting any
14 regulations and performing any other preparatory administrative
15 tasks necessary to carry out the provisions of this act; and

16 2. On July 1, 2016, for all other purposes.

TEXT OF REPEALED SECTION

689C.455 Coverage for prescription drugs: Provision of notice and information regarding use of formulary.

1. A carrier that offers or issues a contract which provides coverage for prescription drugs shall include with any summary, certificate or evidence of that coverage provided to an insured, notice of whether a formulary is used and, if so, of the opportunity to secure information regarding the formulary from the carrier pursuant to subsection 2. The notice required by this subsection must:

(a) Be in a language that is easily understood and in a format that is easy to understand;

(b) Include an explanation of what a formulary is; and

(c) If a formulary is used, include:

(1) An explanation of:

(I) How often the contents of the formulary are reviewed;

and

(II) The procedure and criteria for determining which prescription drugs are included in and excluded from the formulary; and

(2) The telephone number of the carrier for making a request for information regarding the formulary pursuant to subsection 2.



2. If a carrier offers or issues a contract which provides coverage for prescription drugs and a formulary is used, the carrier shall:

(a) Provide to any insured or participating provider of health care, upon request:

(1) Information regarding whether a specific drug is included in the formulary.

(2) Access to the most current list of prescription drugs in the formulary, organized by major therapeutic category, with an indication of whether any listed drugs are preferred over other listed drugs. If more than one formulary is maintained, the carrier shall notify the requester that a choice of formulary lists is available.

(b) Notify each person who requests information regarding the formulary, that the inclusion of a drug in the formulary does not guarantee that a provider of health care will prescribe that drug for a particular medical condition.

