Amendment No. 571

Assembly Amendment to Assembly Bill No. 472	(BDR 57-812)				
Proposed by: Assembly Committee on Commerce and Labor					
Amendment Box: Replaces Amendment No. 492.					
Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes					
Adoption of this amendment will REMOVE the unfunded mandate from A.B. 472.					
ASSEMBLY ACTION Initial and Date SENATE ACTION In	nitial and Date				
Adopted Lost Lost Lost Lost]				

EXPLANATION: Matter in (1) blue bold italics is new language in the original bill; (2) variations of green bold underlining is language proposed to be added 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) <u>orange double underlining</u> is deleted language in the original bill proposed to be

Concurred In

Receded

Not

Not

retained in this amendment.

Not

Concurred In Receded

EWR/RBL



Date: 4/18/2019

A.B. No. 472—Revises provisions relating to insurance coverage of maternity and pediatric care. (BDR 57-812)

ASSEMBLY BILL No. 472—COMMITTEE ON HEALTH AND HUMAN SERVICES

MARCH 25, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to insurance coverage of maternity [and pediatric] care. (BDR 57-812)

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

Effect on the State: Yes.

[CONTAINS UNFUNDED MANDATE (§ 13) (Not Requested by Affected Local Government)]

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

AN ACT relating to insurance; prohibiting an insurer from denying certain coverage for maternity [and pediatrie] care [based on the circumstances of conception;] because the insured acts as a gestational carrier; deeming a child carried by a gestational carrier to be the child of the intended parent for certain purposes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits an individual or group insurance plan from denying coverage or restricting benefits for any length of stay in a hospital in connection with childbirth to less than 48 hours after a vaginal delivery or 96 hours after a cesarean section, unless otherwise recommended by the American College of Obstetricians and Gynecologists or the American Academy of Pediatrics. (NRS 689A.0425, 689B.520, 689C.194) Sections 1, 3, 4, 6-9, 11 and [13–15] 14 of this bill: (1) prohibit any insurer, [including] excluding Medicaid and insurance provided by [state and] local governments for their employees, from denying for restricting a benefit, denying coverage or continued coverage or engaging in certain other discriminatory actions concerning a covered mother, her newborn infant or an attending provider of health care based on the circumstances of conception.], limiting or seeking reimbursement for maternity care because the insured acts as a gestational carrier; and (2) require a child carried by a gestational carrier to be deemed, for purposes relating to a policy of health insurance, to be the child of the person or persons who manifest the intent to be legally bound as the parent of the child. Sections 2, 5 [5] and 10 [and 12] of this bill make conforming changes.

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

- **Section 1.** Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:
- 1. An insurer that offers or issues a policy of health insurance that includes coverage for maternity care [and pediatric care] shall not [, based on the circumstances of conception, including, without limitation, surrogaev:
 - 1. Deny or restrict a benefit for a covered mother or her newborn infant;
- 2. Deny coverage or continued coverage to a covered mother or her newborn infant;
 - 3. Adjust a premium, deductible, copayment or coinsurance;
 - 4. Penalize, or otherwise reduce or limit, the reimbursement of an attending provider of health care; or
 - 5. Otherwise discriminate against a covered mother, her newborn infant or an attending provider of health eare.] deny, limit or seek reimbursement for maternity care because the insured is acting as a gestational carrier.
 - 2. If an insured acts as a gestational carrier, the child shall be deemed to be a child of the intended parent, as defined in NRS 126.590, for purposes related to the policy of health insurance.
 - 3. As used in this section, "gestational carrier" has the meaning ascribed to it in NRS 126.580.
 - **Sec. 2.** NRS 689A.330 is hereby amended to read as follows:
 - 689A.330 If any policy is issued by a domestic insurer for delivery to a person residing in another state, and if the insurance commissioner or corresponding public officer of that other state has informed the Commissioner that the policy is not subject to approval or disapproval by that officer, the Commissioner may by ruling require that the policy meet the standards set forth in NRS 689A.030 to 689A.320, inclusive [-], and section 1 of this act.
 - **Sec. 3.** Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:
 - <u>1.</u> An insurer that offers or issues a policy of group health insurance that includes coverage for maternity care [and pediatric care] shall not [f, based on the circumstances of conception, including, without limitation, surrogacy:
 - 1. Deny or restrict a benefit for a covered mother or her newborn infant;
 - 2. Deny coverage or continued coverage to a covered mother or her newborn infant;
 - 3. Adjust a premium, deductible, copayment or coinsurance;
 - 4. Penalize, or otherwise reduce or limit, the reimbursement of an attending provider of health care; or
- 5. Otherwise discriminate against a covered mother, her newborn infant or an attending provider of health eare.] deny, limit or seek reimbursement for maternity care because the insured is acting as a gestational carrier.
- 41 2. If an insured acts as a gestational carrier, the child shall be deemed to be a child of the intended parent, as defined in NRS 126.590, for purposes related to the policy of group health insurance.
 - 3. As used in this section, "gestational carrier" has the meaning ascribed to it in NRS 126.580.

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- Sec. 4. Chapter 689C of NRS is hereby amended by adding thereto a new section to read as follows:

 1. A carrier that offers or issues a health benefit plan that includes
 - <u>I.</u> A carrier that offers or issues a health benefit plan that includes coverage for maternity care [and pediatric eare] shall not _f, based on the circumstances of conception, including, without limitation, surrogacy:
 - 1. Deny or restrict a benefit for a covered mother or her newborn infant;
 - 2. Deny coverage or continued coverage to a covered mother or her newborn infant;
 - 3. Adjust a premium, deductible, copayment or coinsurance;
- 10 4. Penalize, or otherwise reduce or limit, the reimbursement of an attending provider of health care; or
 - 5. Otherwise discriminate against a covered mother, her newborn infant or an attending provider of health care.] deny, limit or seek reimbursement for maternity care because the insured is acting as a gestational carrier.
 - 2. If an insured acts as a gestational carrier, the child shall be deemed to be a child of the intended parent, as defined in NRS 126.590, for purposes related to the health benefit plan.
 - 3. As used in this section, "gestational carrier" has the meaning ascribed to it in NRS 126.580.
 - Sec. 5. 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 4 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. 6.** Chapter 695A of NRS is hereby amended by adding thereto a new section to read as follows:
 - <u>I.</u> A society that offers or issues a benefit contract that includes coverage for maternity care [and pediatric care] shall not [, based on the circumstances of conception, including, without limitation, surrogacy:
 - 1. Deny or restrict a benefit for a covered mother or her newborn infant;
 - 2. Deny coverage or continued coverage to a covered mother or her newborn infant;
 - 3. Adjust a premium, deductible, copayment or coinsurance;
 - 4. Penalize, or otherwise reduce or limit, the reimbursement of an attending provider of health care; or
 - 5. Otherwise discriminate against a covered mother, her newborn infant or an attending provider of health eare.] deny, limit or seek reimbursement for maternity care because the insured is acting as a gestational carrier.
 - 2. If an insured acts as a gestational carrier, the child shall be deemed to be a child of the intended parent, as defined in NRS 126.590, for purposes related to the benefit contract.
 - 3. As used in this section, "gestational carrier" has the meaning ascribed to it in NRS 126.580.
 - **Sec. 7.** Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:
 - 1. An insurer that offers or issues a contract for hospital or medical services that includes coverage for maternity care [and pediatric care] shall not [, based on the circumstances of conception, including, without limitation, surrogacy:
 - 1. Deny or restrict a benefit for a covered mother or her newborn infant;
 - 2. Deny coverage or continued coverage to a covered mother or her
 - 3. Adjust a premium, deductible, copayment or coinsurance;

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- 1 4. Penalize, or otherwise reduce or limit, the reimbursement of an attending provider of health care; or
 3 5. Otherwise discriminate against a covered mother, her newborn infant or
 - 5. Otherwise discriminate against a covered mother, her newborn infant or an attending provider of health eare.] deny, limit or seek reimbursement for maternity care because the insured is acting as a gestational carrier.
 - 2. If an insured acts as a gestational carrier, the child shall be deemed to be a child of the intended parent, as defined in NRS 126.590, for purposes related to the contract for hospital or medical services.
 - 3. As used in this section, "gestational carrier" has the meaning ascribed to it in NRS 126.580.
 - **Sec. 8.** 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 that includes coverage for maternity care [and pediatric care] shall not [s, based on the circumstances of conception, including, without limitation, surrogacy:
 - 1. Deny or restrict a benefit for a covered mother or her newborn infant;
 - 2. Deny coverage or continued coverage to a covered mother or her newborn infant;
 - 3. Adjust a premium, deductible, copayment or coinsurance;
 - 4. Penalize, or otherwise reduce or limit, the reimbursement of an attending provider of health care; or
 - 5. Otherwise discriminate against a covered mother, her newborn infant or an attending provider of health eare.] deny, limit or seek reimbursement for maternity care because the enrollee is acting as a gestational carrier.
 - 2. If an enrollee acts as a gestational carrier, the child shall be deemed to be a child of the intended parent, as defined in NRS 126.590, for purposes related to the health care plan.
 - 3. As used in this section, "gestational carrier" has the meaning ascribed to it in NRS 126.580.
 - **Sec. 9.** 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, 695C.1703, 695C.1705, 695C.1709 to 695C.173, inclusive, 695C.1733, 695C.17335, 695C.1734, 695C.1751, 695C.1755, 695C.176 to 695C.200, inclusive, and section 8 of this act 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

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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 to 695C.1698, inclusive, 695C.1708, 695C.1731, 695C.17345, 695C.1735, 695C.1745 and 695C.1757 [and section 8 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. 10. 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 8 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 or creditors or to the general public;
- (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

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

<u>I.</u> A managed care organization that offers or issues a health care plan that includes coverage for maternity care [and pediatric care] shall not [, based on the circumstances of conception, including, without limitation, surrogacy:

1. Deny or restrict a benefit for a covered mother or her newborn infant;

2. Deny coverage or continued coverage to a covered mother or her newborn infant;

3. Adjust a premium, deductible, copayment or coinsurance;

— 4. Penalize, or otherwise reduce or limit, the reimbursement of an attending provider of health-care; or

5. Otherwise discriminate against a covered mother, her newborn infant or an attending provider of health care.] deny, limit or seek reimbursement for maternity care because the insured is acting as a gestational carrier.

2. If an insured acts as a gestational carrier, the child shall be deemed to be a child of the intended parent, as defined in NRS 126.590, for purposes related to the health care plan.

3. As used in this section, "gestational carrier" has the meaning ascribed to it in NRS 126.580.

Sec. 12. [NRS 232.320 is hereby amended to read as follows:

232.320 1. The Director:

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- (a) Shall appoint, with the consent of the Governor, administrators of the divisions of the Department, who are respectively designated as follows:
 - (1) The Administrator of the Aging and Disability Services Division;
 - (2) The Administrator of the Division of Welfare and Supportive Services;
- (3) The Administrator of the Division of Child and Family Services:
- (4) The Administrator of the Division of Health Care Financing and Policy; and

(5) The Administrator of the Division of Public and Behavioral Health.

(b) Shall administer, through the divisions of the Department, the provisions of chapters 63, 424, 425, 427A, 432A to 442, inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, and section 15 of this act, 422.580, 432.010 to 432.133, inclusive, 432B.621 to 432B.626, inclusive, 444.002 to 444.430, inclusive, and 445A.010 to 445A.055, inclusive, and all other provisions of law relating to the functions of the divisions of the Department, but is not responsible for the clinical activities of the Division of Public and Behavioral Health or the professional line activities of the other divisions.

(c) Shall administer any state program for persons with developmental disabilities established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq.

- (d) Shall, after considering advice from agencies of local governments and nonprofit organizations which provide social services, adopt a master plan for the provision of human services in this State. The Director shall revise the plan biennially and deliver a copy of the plan to the Governor and the Legislature at the beginning of each regular session. The plan must:
- (1) Identify and assess the plans and programs of the Department for the provision of human services, and any duplication of those services by federal, state and local agencies:
- (2) Set forth priorities for the provision of those services;
- (3) Provide for communication and the coordination of those services among nonprofit organizations, agencies of local government, the State and the Federal Government:
- (4) Identify the sources of funding for services provided by the Department and the allocation of that funding;
- (5) Set forth sufficient information to assist the Department in providing those services and in the planning and budgeting for the future provision of those services; and
- (6) Contain any other information necessary for the Department to communicate effectively with the Federal Government concerning demographic trends, formulas for the distribution of federal money and any need for the modification of programs administered by the Department.
- (e) May, by regulation, require nonprofit organizations and state and local governmental agencies to provide information regarding the programs of those organizations and agencies, excluding detailed information relating to their budgets and payrells, which the Director deems necessary for the performance of the duties imposed upon him or her pursuant to this section.
- (f) Has such other powers and duties as are provided by law.
- 2. Notwithstanding any other provision of law, the Director, or the Director's designee, is responsible for appointing and removing subordinate officers and employees of the Department, other than the State Public Defender of the Office of State Public Defender who is appointed pursuant to NRS 180.010.] (Deleted by amendment.)
 - Sec. 13. [NRS 287.010 is hereby amended to read as follows:
- 287.010 Î. 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

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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 3 of this act and 689B.287 apply to coverage provided pursuant to this paragraph, except that the provisions of NRS 689B.0378 and 689B.03785 only apply to coverage for active officers and employees of the governing body, or the dependents of such officers and employees fund or of

must be maintained as an internal service fund as defined by NRS 354.543. The

- (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 logal 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.] (Deleted by amendment.)
 - **Sec. 14.** 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 687B.409, 689B.255,

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- 695G.150, 695G.160, 695G.162, 695G.164, 695G.1645, 695G.1665, 695G.167, 2 695G.170 to 695G.173, inclusive, 695G.177, 695G.200 to 695G.230, inclusive, 3 695G.241 to 695G.310, inclusive, and section 11 of this act and 695G.405, in the 4 same manner as an insurer that is licensed pursuant to title 57 of NRS is required to 5 comply with those provisions. 6
 - Sec. 15. Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:
 - The Director shall include in the State Plan for Medicaid a provision prohibiting the State from, based on the circumstances of conception, including, without limitation, surrogacy:
 - 1. Denying or restricting a benefit for a covered mother or her newborn infant;
 - 2. Denying coverage or continued coverage to a covered mother or her newborn infant:
 - 3. Adjusting a premium, deductible, copayment or coinsurance;
 - 4. Penalizing, or otherwise reducing or limiting, the reimbursement of an attending provider of health care; or
 - 5. Otherwise discriminating against a covered mother, her newborn infant or an attending provider of health care.] (Deleted by amendment.)
 - Sec. 16. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.] (Deleted by amendment.)
 - Sec. 17. This act becomes effective on [July 1, 2019.] January 1, 2020.