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SECOND REPRINT

S.B. 365

SENATE BILL NO. 365—SENATORS DONDERO LOOP,
PARKS, WOODHOUSE; AND BROOKS

MARCH 19, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to health insurance.
(BDR 57-684)

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

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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 health insurance; making various changes concerning health carriers granting third-party access to certain provider networks; providing administrative penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, health carriers may establish networks of providers of health care to provide health care services to covered persons. (Chapter 687B of NRS) Providers of health care include, but are not limited to, physicians, nurses, chiropractors, dentists and physical therapists. (NRS 687B.660). **Section 1** of this bill provides that it is an unfair method of competition subject to an administrative fine pursuant to NRS 686A.187 to knowingly utilize a provider of health care's contractual discount without a contractual relationship. **Sections 7-11** of this bill establish a contractually protected system for health carriers to enter contracts with third parties to give them access to certain provider network contracts and information about a provider of health care's services and discounts. **Section 7** excludes certain insurance plans and coverages from the provisions of this bill. **Section 8** of the bill requires certain disclosures in a health carrier's provider network contracts with providers of health care and authorizes third parties to sign a contract to access a network contract. **Section 8** also requires that a health carrier maintain a website with certain information about third parties which have access to the network contract. **Section 9** of this bill allows a third party to enter contracts with other third parties under the same terms and conditions as their contract. **Section 10** of this bill requires a third party to establish a website to identify other entities to which it has granted access to provider network contracts. **Section 11** of this bill requires that health carriers and third parties comply with **sections 8 and 10** when submitting remittance advice and explanation of payments to providers of health care.



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

Section 1. Chapter 686A of NRS is hereby amended by adding thereto a new section to read as follows:

It constitutes an unfair method of competition or an unfair or deceptive act or practice in the business of insurance to knowingly access or utilize a contractual discount of a provider of health care pursuant to a provider network contract without a contractual relationship with the provider of health care, health carrier or third party as specified in sections 7 to 11, inclusive, of this act.

Sec. 2. NRS 686A.010 is hereby amended to read as follows:

686A.010 The purpose of NRS 686A.010 to 686A.310, inclusive, *and section 1 of this act*, is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress approved March 9, 1945, being c. 20, 59 Stat. 33, also designated as 15 U.S.C. §§ 1011 to 1015, inclusive, and Title V of Public Law 106-102, 15 U.S.C. §§ 6801 et seq.

Sec. 3. Chapter 687B of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 11, inclusive, of this act.

Sec. 4. *“Direct notification” means a written or electronic communication from a health carrier to a provider of health care documenting third-party access to a network.*

Sec. 5. *“Provider network contract” means a contract between a health carrier and a provider of health care specifying the rights and responsibilities of the health carrier and the provider of health care for delivery of health care services pursuant to a network plan.*

Sec. 6. *“Third party” means an organization that enters into a contract with a health carrier or with another third party to gain access to a provider network contract.*

Sec. 7. *Sections 7 to 11, inclusive, of this act, do not apply:*

1. To provider network contracts for health care services provided to covered persons under Medicare or the State Plan for Medicaid, or the Children’s Health Insurance Program.

2. In circumstances where access to the provider network contract is granted to an entity operating under the same brand license program as the contracting entity.

3. To a health benefit plan which provides:

(a) Coverage that is only for accident or disability income insurance, or any combination thereof.

(b) Coverage issued as a supplement to liability insurance.

(c) Coverage for on-site medical clinics.



(d) Coverage under a blanket student accident and health insurance policy.

(e) Other similar insurance coverage specified pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, under which benefits for medical care are secondary or incidental to other insurance benefits.

4. To credit insurance.

5. To the following benefits if the benefits are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of a health benefit plan:

(a) Limited-scope vision benefits;

(b) Benefits for long-term care, nursing home care, home health care or community-based care, or any combination thereof; and

(c) Such other similar benefits as are specified in any federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

6. To the following benefits if the benefits are provided under a separate policy, certificate or contract, there is no coordination between the provisions of the benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor, and the benefits are paid for a claim without regard to whether benefits are provided for such a claim under any group health plan maintained by the same plan sponsor:

(a) Coverage that is only for a specified disease or illness; and

(b) Hospital indemnity or other fixed indemnity insurance.

7. To any of the following, if offered as a separate policy, certificate or contract of insurance:

(a) Medicare supplemental health insurance as defined in section 1882(g)(1) of the Social Security Act, 42 U.S.C. § 1395ss, as that section existed on July 16, 1997;

(b) Coverage supplemental to the coverage provided pursuant to the Civilian Health and Medical Program of Uniformed Services, TRICARE, 10 U.S.C. §§ 1071 et seq.; and

(c) Similar supplemental coverage provided under a group health plan.

Sec. 8. 1. A health carrier shall not grant access to services and contractual discounts of a provider of health care pursuant to a provider network contract unless:

(a) The provider network contract specifically states that the health carrier may enter into an agreement with a third party allowing the third party to obtain the rights and responsibilities of the health carrier under the provider network contract as if the third party were the health carrier; and



(b) The third party accessing the provider network contract is contractually obligated to comply with all applicable terms, limitations and conditions of the provider network contract.

2. A health carrier that grants access to services and contractual discounts of a provider of health care pursuant to a provider network contract shall:

(a) Identify and provide to the provider of health care, upon request at the time a provider network contract is entered into with a provider of health care, a written or electronic list of all third parties known at the time of contracting to which the health carrier has or will grant access to the services and contractual discounts of a provider of health care pursuant to a provider network contract.

(b) Maintain an Internet website or other readily available mechanism, such as a toll-free telephone number, through which a provider of health care may obtain a listing, at least every 90 days, of the third parties with which the health carrier or another third party has executed contracts to grant access to such services and contractual discounts of a provider of health care pursuant to a provider network contract.

(c) Provide the third party with sufficient information regarding the provider network contract to enable the third party to comply with all relevant terms, limitations and conditions of the provider network contract.

(d) Require that the third party who contracts with the health carrier to gain access to the provider network contract identify the source of the contractual discount taken by the third party on each remittance advice or explanation of payment form furnished to a provider of health care when such discount is pursuant to the provider network contract of the health carrier.

(e) Notify the third party who contracts with the health carrier to gain access to the provider network contract of the termination of the provider network contract not later than 90 days prior to the effective date of the final termination of the provider network contract. The notice required under this paragraph may be delivered through any reasonable means, including, without limitation, a written notice, electronic communication, or an update to an electronic database or other provider of health care listing.

(f) Require that those that are by contract eligible to claim the right to access a discounted rate of a provider of health care to cease claiming entitlement to those rates or other contracted rights or obligations for services rendered after termination of the provider network contract.



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3. Subject to any continuity of care requirements, agreements or contractual provisions:

(a) Not less than 30 days before the date of termination of a provider network contract, a health carrier shall provide written notification of the contract termination to the affected providers of health care and covered persons;

(b) A third party's right to access services and contractual discounts of a provider of health care pursuant to a provider network contract shall terminate not earlier than 90 days after the provider network contract is terminated;

(c) Claims for health care services performed after the termination date of the provider network contract are not eligible for processing and payment in accordance with the provider network contract; and

(d) Claims for health care services performed before the termination date of the provider network contract, but processed after the termination date, are eligible for processing and payment in accordance with the provider network contract.

4. All information made available to a provider of health care in accordance with the requirements of sections 7 to 11, inclusive, of this act is confidential and must not be disclosed to any person or entity not involved in the provider of health care's practice or business or the administration thereof without the prior written consent of the health carrier.

5. Nothing contained in sections 7 to 11, inclusive, of this act shall be construed to prohibit a health carrier from requiring the provider of health care to execute a reasonable confidentiality agreement to ensure that confidential or proprietary information disclosed by the health carrier is not used for any purpose other than the direct practice or business management or billing activities of the provider of health care.

Sec. 9. 1. A third party, having itself been granted access to services and contractual discounts of a provider of health care pursuant to a provider network contract, that subsequently grants access to another third party, is obligated to comply with the rights and responsibilities imposed on contracting entities pursuant to sections 8 and 10 of this act.

2. A third party that enters into a contract with another third party to access services and contractual discounts of a provider of health care pursuant to a provider network contract is obligated to comply with the rights and responsibilities imposed on third parties under this section.

Sec. 10. 1. A third party shall inform the health carrier and providers of health care under the provider network contract of the health carrier of the location of a website, toll-free number, or



1 *other readily available mechanism to identify the name of a person*
2 *or entity to which the third party subsequently grants access to the*
3 *services and contractual discounts of the provider of health care*
4 *pursuant to the provider network contract.*

5 2. *The website must be updated on a routine basis when*
6 *additional persons or entities are granted access. The website must*
7 *be updated every 90 days to reflect all current persons and entities*
8 *with access. Upon request, a health carrier shall make access to*
9 *information available to a provider of health care via telephone or*
10 *through direct notification.*

11 **Sec. 11. 1.** *A health carrier and third parties are obligated*
12 *to comply with sections 8 and 10 of this act concerning the*
13 *services referenced on a remittance advice or explanation of*
14 *payment. A provider of health care may refuse the discount taken*
15 *on the remittance advice or explanation of payment if the discount*
16 *is taken without a contractual basis or in violation of section 7 or*
17 *9 of this act. An error in the remittance advice or explanation of*
18 *payment may be corrected not more than 30 days after given*
19 *notice of the error by the provider of health care.*

20 2. *A health carrier may not lease, rent or otherwise grant to a*
21 *third party, access to a provider network contract unless the third*
22 *party accessing the provider network contract is:*

23 (a) *A payer or third party, administrator or other entity that*
24 *administers or processes claims on behalf of the payer;*

25 (b) *A preferred provider of health care organization or*
26 *preferred provider of health care network, including a physician*
27 *organization or a physician-hospital organization; or*

28 (c) *An entity engaged in the electronic claims transport*
29 *between the health carrier and the payer that does not provide*
30 *access to the services and discounts of a provider of health care to*
31 *any other third party.*

32 **Sec. 12.** *NRS 687B.600 is hereby amended to read as follows:*
33 *687B.600 As used in NRS 687B.600 to 687B.850, inclusive,*
34 *and sections 4 to 11, inclusive, of this act, unless the context*
35 *otherwise requires, the words and terms defined in NRS 687B.605*
36 *to 687B.665, inclusive, and sections 4, 5 and 6 of this act have the*
37 *meanings ascribed to them in those sections.*

38 **Sec. 13.** *This act becomes effective upon passage and approval*
39 *for the purposes of adopting regulations and performing any other*
40 *preparatory administrative tasks that are necessary to carry out the*
41 *provisions of this act, and on January 1, 2020, for all other purposes.*

