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Office of the Governor

June 16, 2023

The Honorable Francisco Aguilar
Nevada Secretary of State
101 North Carson Street
Carson City, Nevada 89701

Re: Assembly Bill 439 of the 82nd Legislative Session

Dear Secretary of State Aguilar:

I am forwarding to you, for filing within the time limit set forth in the Nevada Constitution and without my approval, Assembly Bill 439 ("AB 439"), which is titled as follows:

AN ACT relating to insurance; providing, with certain exceptions, that no provision for arbitration in a contract for health insurance is binding upon any person insured under the contract who makes a claim; repealing certain provisions related to provisions for arbitration in a contract for health insurance; and providing other matters properly relating thereto.

The Federal Arbitration Act ("FAA") has been effective since 1926 and was enacted, in part, to streamline adjudicative services so plaintiffs could avoid the sluggish, costly process of litigation. Since then, the United States Supreme Court has repeatedly held that state rules that burden the formation of arbitration agreements stand as an obstacle to the FAA. Recently, in *Kindred Nursing Centers Ltd. Partnership v. Clark*, the Court determined that when a rule "singles out arbitration agreements for disfavored treatment" then it violates the FAA. 581 U.S. 246, 248 (2017). AB 439 would do exactly that by placing multiple kinds of agreed-upon arbitration provisions on unequal footing with other agreed-upon contracts.

Since AB 439 stands in contrast to existing Court precedent regarding arbitration agreements, I cannot support it.

For these reasons, I veto this bill and return it to you without my signature or approval.

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Respectfully submitted,



JOE LOMBARDO
Governor of Nevada

Enclosure

cc: The Honorable Stavros Anthony, President of the Senate (without enclosure)
 The Honorable Nicole Cannizzaro, Senate Majority Leader (without enclosure)
 The Honorable Steve Yeager, Speaker of the Assembly (without enclosure)
 Brendan Bucy, Secretary of the Senate (without enclosure)
 Susan Furlong, Chief Clerk of the Assembly (without enclosure)
 Brenda Erdoes, Esq., Legislative Counsel Bureau, Director (without enclosure)
 Bryan Fernley, Esq., Legislative Counsel (without enclosure)