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SECOND REPRINT

A.B. 383

ASSEMBLY BILL NO. 383—ASSEMBLYMEN TORRES, PETERS, GORELOW, GONZÁLEZ; ANDERSON, BILBRAY-AXELROD, BROWN-MAY, CONSIDINE, D’SILVA, DURAN, JAUREGUI, C.H. MILLER, NEWBY, SUMMERS-ARMSTRONG, THOMAS AND WATTS

MARCH 22, 2023

JOINT SPONSORS: SENATOR D. HARRIS

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to health care. (BDR 40-116)

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 care; prohibiting a governmental entity from substantially burdening certain activity relating to reproductive health services under certain circumstances; authorizing a person whose engagement in such activity has been so burdened to assert the violation as a claim or defense in a judicial proceeding; authorizing a court to award damages against a governmental entity that substantially burdens such activity in certain circumstances; expanding required coverage of contraception under the State Plan for Medicaid; making appropriations to and authorizing expenditures by the Division of Health Care Financing and Policy of the Department of Health and Human Services; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law prescribes certain rights for a patient of a medical facility or a
- 2 facility for the dependent. (NRS 449A.100-449A.124) **Sections 2-7** of this bill
- 3 establish the Right to Reproductive Health Care Act. **Sections 4-5.5** of this bill
- 4 define certain terms for purposes of the Act. **Section 6** of this bill applies the
- 5 provisions of the Act to certain state laws and all local laws and ordinances and the



6 implementation of those laws and ordinances, regardless of when those laws or
7 ordinances were enacted. **Section 7** of this bill generally prohibits a governmental
8 entity from enacting or implementing any limitation or requirement that singles out
9 reproductive health services and substantially burdens: (1) the access of a person to
10 reproductive health services, drugs or devices related to reproductive health
11 services or information related to reproductive health services; or (2) the ability of a
12 provider of health care to provide reproductive health services, drugs or devices
13 related to reproductive health services or information related to reproductive health
14 services within his or her scope of practice, training and experience. **Section 7**
15 creates an exception to such prohibitions if the governmental entity demonstrates
16 by clear and convincing evidence that the burden, as applied to the person or
17 provider of health care who is subject to the burden: (1) furthers a compelling
18 interest; and (2) is the least restrictive means of furthering that interest. **Section 7**
19 authorizes a person whose ability to obtain or provide reproductive health services,
20 drugs or devices related to reproductive health services or information related to
21 reproductive health services is burdened to bring or defend an action in court and
22 obtain appropriate relief. **Section 7** requires a court to award costs and attorney's
23 fees to a person who prevails on such a claim.

24 Existing law requires the State Plan for Medicaid to include coverage for
25 certain contraceptive drugs and devices, including: (1) up to a 12-month supply of
26 contraceptive drugs; (2) certain devices for contraception; and (3) voluntary
27 sterilization for women. (NRS 422.27172) **Section 8** of this bill additionally
28 requires the State Plan for Medicaid to cover: (1) voluntary sterilization for men;
29 (2) clinical services relating to covered contraceptive drugs, devices and services;
30 and (3) the cost of language translation services provided to facilitate the provision
31 of covered contraceptive drugs, devices and services. **Section 8** requires the
32 Division of Health Care Financing and Policy of the Department of Health and
33 Human Services to develop a methodology establishing a rate of compensation for
34 such translation services that is cost effective and comparable to the rate paid for
35 translation services by other governmental entities that arrange for the provision of
36 such services. **Section 8** also requires the State Plan to: (1) cover certain
37 contraceptive services when provided by any provider of health care for whom the
38 services are within his or her scope of practice, training and experience; (2)
39 reimburse a provider of health care, other than a physician, physician assistant or
40 advanced practice registered nurse, for providing such services at a rate that is not
41 less than the rate provided to a physician, physician assistant or advanced practice
42 registered nurse; and (3) cover such services regardless of whether the services are
43 provided in an inpatient or outpatient setting.

44 **Section 20.5** of this bill makes appropriations to, and authorizes expenditures
45 by, the Division for costs of providing Medicaid coverage for translation services
46 and certain other purposes.

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

1 **Section 1.** Chapter 449A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 to 7, inclusive,
3 of this act.

4 **Sec. 2.** *Sections 2 to 7, inclusive, of this act may be cited as*
5 *the Right to Reproductive Health Care Act.*

6 **Sec. 3.** *As used in sections 2 to 7, inclusive, of this act, unless*
7 *the context otherwise requires, the words and terms defined in*



1 *sections 4, 5 and 5.5 of this act have the meanings ascribed to*
2 *them in those sections.*

3 **Sec. 4.** *“Governmental entity” means the State of Nevada or*
4 *any of its agencies or political subdivisions.*

5 **Sec. 5.** *“Provider of health care” has the meaning ascribed*
6 *to it in NRS 629.031.*

7 **Sec. 5.5.** *“Reproductive health services” means medical,*
8 *surgical, counseling or referral services relating to the human*
9 *reproductive system, including, without limitation, services*
10 *relating to pregnancy, contraception, miscarriage, in-vitro*
11 *fertilization or any procedure or care found by a competent*
12 *medical professional to be appropriate based upon the wishes of a*
13 *patient and in accordance with the laws of this State.*

14 **Sec. 6. 1.** *Except as otherwise provided in this subsection,*
15 *the provisions of sections 2 to 7, inclusive, of this act apply to all*
16 *state and local laws and ordinances and the implementation of*
17 *those laws and ordinances, whether statutory or otherwise, and*
18 *whether enacted before, on or after January 1, 2024. The*
19 *provisions of sections 2 to 7, inclusive, of this act do not apply to*
20 *NRS 442.250 or the implementation of NRS 442.250.*

21 **2.** *State laws that are enacted on or after January 1, 2024, are*
22 *subject to the provisions of sections 2 to 7, inclusive, of this act*
23 *unless the law explicitly excludes such application by reference to*
24 *this section.*

25 **3.** *The provisions of sections 2 to 7, inclusive, of this act do*
26 *not:*

27 **(a)** *Authorize a governmental entity to burden:*

28 **(1)** *The access of any person to reproductive health*
29 *services, information related to reproductive health services or any*
30 *drug or device related to reproductive health services; or*

31 **(2)** *The ability of a provider of health care to provide*
32 *reproductive health services or information related to reproductive*
33 *health services or to provide, administer, dispense or prescribe any*
34 *drug or device related to reproductive health services within the*
35 *scope of practice, training and experience of the provider of health*
36 *care.*

37 **(b)** *Authorize or sanction any sterilization procedure without*
38 *the voluntary and informed consent of the patient.*

39 **Sec. 7. 1.** *Except as otherwise provided in this section, a*
40 *governmental entity shall not enact or implement any limitation or*
41 *requirement that:*

42 **(a)** *Expressly, effectively, implicitly or, as implemented, singles*
43 *out reproductive health services, drugs or devices related to*
44 *reproductive health services or information related to reproductive*
45 *health services or any providers of health care or facilities that*



1 *provide reproductive health services, drugs or devices related to*
2 *reproductive health services or information related to reproductive*
3 *health services; and*

4 (b) *Substantially burdens:*

5 (1) *The access of a person to reproductive health services,*
6 *drugs or devices related to reproductive health services or*
7 *information related to reproductive health services; or*

8 (2) *The ability of a provider of health care to provide*
9 *reproductive health services, drugs or devices related to*
10 *reproductive health services or information related to reproductive*
11 *health services within the scope of practice, training and*
12 *experience of the provider of health care.*

13 2. *A governmental entity may enact a requirement or*
14 *limitation described in subsection 1 if the governmental entity*
15 *demonstrates by clear and convincing evidence that the burden*
16 *imposed by the requirement or limitation on the activity described*
17 *in paragraph (b) of subsection 1, as applied to the person or*
18 *provider of health care who is subject to the burden:*

19 (a) *Further a compelling interest; and*

20 (b) *Is the least restrictive means of furthering that interest.*

21 3. *Notwithstanding any provision of NRS 41.0305 to 41.039,*
22 *inclusive, but subject to the limitation on damages set forth in*
23 *NRS 41.035 when applicable, a person or provider of health care*
24 *who has been substantially burdened in violation of this section*
25 *may assert that violation as a claim or defense in a judicial*
26 *proceeding and obtain appropriate relief. A court shall award*
27 *costs and attorney's fees to a person who prevails on such a claim*
28 *or defense pursuant to this section.*

29 4. *A court may find that a person is a vexatious litigant if the*
30 *person makes a claim within the scope of sections 2 to 7, inclusive,*
31 *of this act which is without merit, fraudulent or otherwise*
32 *intended to harass or annoy a person. If a court finds that a*
33 *person is a vexatious litigant pursuant to this subsection, the court*
34 *may deny standing to that person to bring further claims which*
35 *allege a violation of this section.*

36 **Sec. 8.** NRS 422.27172 is hereby amended to read as follows:

37 422.27172 1. The Director shall include in the State Plan for
38 Medicaid a requirement that the State pay the nonfederal share of
39 expenditures incurred for:

40 (a) Up to a 12-month supply, per prescription, of any type of
41 drug for contraception or its therapeutic equivalent which is:

42 (1) Lawfully prescribed or ordered;

43 (2) Approved by the Food and Drug Administration; and

44 (3) Dispensed in accordance with NRS 639.28075;



1 (b) Any type of device for contraception which is lawfully
2 prescribed or ordered and which has been approved by the Food and
3 Drug Administration;

4 (c) Self-administered hormonal contraceptives dispensed by a
5 pharmacist pursuant to NRS 639.28078;

6 (d) Insertion or removal of a device for contraception;

7 (e) Education and counseling relating to the initiation of the use
8 of contraceptives and any necessary follow-up after initiating such
9 use;

10 (f) Management of side effects relating to contraception; ~~and~~

11 (g) Voluntary sterilization ~~for women.~~; and

12 *(h) Any clinical services relating to the drugs, devices and*
13 *services described in paragraphs (a) to (g), inclusive. Such clinical*
14 *services, include, without limitation, services to monitor the use*
15 *and effectiveness of contraception.*

16 2. Except as otherwise provided in subsections 4 and 5, to
17 obtain any benefit provided in the Plan pursuant to subsection 1, a
18 person enrolled in Medicaid must not be required to:

19 (a) Pay a higher deductible, any copayment or coinsurance; or

20 (b) Be subject to a longer waiting period or any other condition.

21 3. The Director shall ensure that the provisions of this section
22 are carried out in a manner which complies with the requirements
23 established by the Drug Use Review Board and set forth in the list
24 of preferred prescription drugs established by the Department
25 pursuant to NRS 422.4025.

26 4. The Plan may require a person enrolled in Medicaid to pay a
27 higher deductible, copayment or coinsurance for a drug for
28 contraception if the person refuses to accept a therapeutic equivalent
29 of the contraceptive drug.

30 5. For each method of contraception which is approved by the
31 Food and Drug Administration, the Plan must include at least one
32 contraceptive drug or device for which no deductible, copayment or
33 coinsurance may be charged to the person enrolled in Medicaid, but
34 the Plan may charge a deductible, copayment or coinsurance for any
35 other contraceptive drug or device that provides the same method of
36 contraception.

37 6. *The Plan must:*

38 *(a) Provide for the reimbursement of a provider of health care*
39 *for providing services described in subsection 1 if the services are*
40 *within the scope of practice, training and experience of the*
41 *provider of health care.*

42 *(b) Provide coverage for the services described in subsection 1*
43 *regardless of whether those services are provided in an inpatient*
44 *or outpatient setting.*



1 **7. The Director shall include in the State Plan for Medicaid a**
2 **requirement that the State pay the nonfederal share of**
3 **expenditures incurred for the costs of any language translation**
4 **services provided to facilitate the provision of any drug, device or**
5 **service described in subsection 1. The Division shall develop a**
6 **methodology establishing a rate of compensation for such**
7 **translation services that is cost effective and comparable to the**
8 **rate paid for translation services by other governmental entities**
9 **that arrange for the provision of such services.**

10 **8. As used in this section:**

11 (a) "Drug Use Review Board" has the meaning ascribed to it in
12 NRS 422.402.

13 (b) "Therapeutic equivalent" means a drug which:

14 (1) Contains an identical amount of the same active
15 ingredients in the same dosage and method of administration as
16 another drug;

17 (2) Is expected to have the same clinical effect when
18 administered to a patient pursuant to a prescription or order as
19 another drug; and

20 (3) Meets any other criteria required by the Food and Drug
21 Administration for classification as a therapeutic equivalent.

22 **Sec. 9.** (Deleted by amendment.)

23 **Sec. 10.** (Deleted by amendment.)

24 **Sec. 11.** (Deleted by amendment.)

25 **Sec. 12.** (Deleted by amendment.)

26 **Sec. 13.** (Deleted by amendment.)

27 **Sec. 14.** (Deleted by amendment.)

28 **Sec. 15.** (Deleted by amendment.)

29 **Sec. 16.** (Deleted by amendment.)

30 **Sec. 17.** (Deleted by amendment.)

31 **Sec. 18.** (Deleted by amendment.)

32 **Sec. 19.** (Deleted by amendment.)

33 **Sec. 20.** (Deleted by amendment.)

34 **Sec. 20.5.** 1. There is hereby appropriated from the State
35 General Fund to the Division of Health Care Financing and Policy
36 of the Department of Health and Human Services for costs of
37 providing Medicaid coverage for translation services, changes to the
38 Medicaid Management Information System and manual claim
39 pricing associated with implementing the provisions of this act the
40 following sums:

41 For the Fiscal Year 2023-2024 \$15,102

42 For the Fiscal Year 2024-2025 \$23,449

43 2. Expenditure of the following sums not appropriated from the
44 State General Fund or State Highway Fund is hereby authorized by
45 the Division of Health Care Financing and Policy of the Department



1 of Health and Human Services for the same purpose as set forth in
2 subsection 1:

3	For the Fiscal Year 2023-2024	\$47,753
4	For the Fiscal Year 2024-2025	\$72,073

5 3. Any balance of the sums appropriated by subsection 1
6 remaining at the end of the respective fiscal years must not be
7 committed for expenditure after June 30 of the respective fiscal
8 years by the entity to which the appropriation is made or any entity
9 to which money from the appropriation is granted or otherwise
10 transferred in any manner, and any portion of the appropriated
11 money remaining must not be spent for any purpose after
12 September 20, 2024, and September 19, 2025, respectively, by
13 either the entity to which the money was appropriated or the entity
14 to which the money was subsequently granted or transferred, and
15 must be reverted to the State General Fund on or before
16 September 20, 2024, and September 19, 2025, respectively.

17 **Sec. 21.** 1. This section becomes effective upon passage and
18 approval.

19 2. Section 20.5 of this act becomes effective on July 1, 2023.

20 3. Sections 1 to 20, inclusive, of this act become effective:

21 (a) Upon passage and approval for the purpose of adopting any
22 regulations and performing any other preparatory administrative
23 tasks that are necessary to carry out the provisions of this act; and

24 (b) On January 1, 2024, for all other purposes.



