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Office of the Governor

June 6, 2011

Speaker John Oceguera
Nevada State Assembly
401 South Carson Street
Carson City, NV 89701

RE: Assembly Bill 309 of the 76th Legislative Session

Dear Mr. Speaker:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 309, which is entitled:

AN ACT relating to insurance; creating the Office of the Consumer Advocate within the Division of Insurance of the Department of Business and Industry; requiring the governor to appoint a Consumer Advocate as the executive head of the office; requiring the Consumer Advocate to intervene in and represent the public interest in public hearings relating to rates for certain health benefit plans; requiring an insurer to provide certain information to the Consumer Advocate and the Division and publish on an Internet website maintained by the insurer certain information concerning each such health benefit plan offered by the insurer in this State; requiring the Commissioner of Insurance to publish on an Internet website maintained by the Division certain information relating to health insurance rates and public hearings relating to rates for such health benefit plans; authorizing an insurer and the Consumer Advocate to request a public hearing on any rate or proposed rate increase or decrease of such a health benefit plan filed by the insurer with the Commissioner; authorizing a consumer of health insurance to request a public hearing on certain rates and proposed rate increases or decreases of such a health benefit plan filed by an insurer with the Commissioner; authorizing the Commissioner to hold a public hearing on a rate or proposed rate increase or decrease of such a health benefit plan filed by an insurer; revising certain provisions relating to trade secrets of insurers; providing a penalty; and providing other matters properly relating thereto.

This bill creates the Office of Consumer Advocate within the Division of Insurance. It provides that any insurer that offers an individual health benefit plan or a group health plan for small employers in this State must provide the Consumer Advocate and the Division with copies of any proposed rate changes and other information used to calculate a rate or proposed rate increase or decrease. The bill also requires such insurers to publish on an Internet website the base premiums, certificates of coverage, projected loss ratio reported to the Department of Health and Human Services and the actual loss ratio reported to the Department for the preceding fiscal year for each health benefit plan offered by the insurer in this State.

The bill requires that upon the filing of a rate or proposed rate increase or decrease, the insurer or the Consumer Advocate may request that the Insurance Commissioner conduct a public hearing on the


rate or proposed rate increase or decrease. The bill also provides that a consumer may request a public hearing if the proposed increase or decrease is more than 10 percent of the current rate or the health benefit plan represents more than 5 percent of its market segment in the State. The Commissioner has discretion to hold a hearing and review the rate change. The bill further provides that information submitted by the insurer is public unless the Commissioner determines it is a trade secret, confidential medical information or relates to the amount, terms or conditions of reimbursement pursuant to a contract between the insurer and a third party.

The goals of this bill are laudable; maintaining reasonable health benefit insurance rates in the individual and small group markets is important to protecting consumers and maintaining economic growth. The bill, however, does more harm than good and seems to impose duplicative regulatory requirements. For example, the State, today, has an existing rate review process. Moreover, the creation of the Office of Consumer Advocate within the Division will increase costs, likely multiplying the number of hearings and the attendant costs to consumers. Indeed, the Consumer Advocate also appears to be a redundant position in that the Commissioner is already tasked by law with assessing rate changes with the interest of the consumer in mind.

Some proponents of this bill suggest that the bill is necessary to comply with federal law. They argue that confidentiality provisions in the law presently, but amended by this bill, preclude the State from establishing a rate review process that satisfies federal standards. It seems unlikely, however, that this is the case. The requirement under federal law, for example, that the State cooperate with insurers to post the provider name, the rate increase requested and the date of the implementation of the increase would not likely run afoul of the proscriptions on posting trade secrets and other proprietary information under our laws. Thus, compliance with federal law is possible without this bill.

Therefore, because Assembly Bill 309 unnecessarily expands a regulatory structure at the expense of health benefit consumers, and because compliance with federal law does not require it, I exercise my constitutional authority to veto Assembly Bill 309, returning it to you without my signature and without my approval.

Sincere regards,



BRIAN SANDOVAL
Governor

Enclosure

cc: The Honorable Brian Krolicki, President of the Senate (without enclosure)
The Honorable Steven Horsford, Senate Majority Leader (without enclosure)
Susan Furlong, Chief Clerk of the Assembly (without enclosure)
David A Byerman, Secretary of the Senate (without enclosure)
Brenda Erdoes, Esq., Legislative Counsel (without enclosure)