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Office of the Governor

June 16, 2017

The Honorable Barbara Cegavske
Nevada Secretary of State
101 North Carson Street
Carson City, NV 89701

RE: Assembly Bill 374 of the 79th Legislative Session

Dear Secretary of State Cegavske:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 374 ("AB 374"), which is entitled:

AN ACT relating to health care; requiring the Department of Health and Human Services, if authorized by federal law, to establish a health care plan within Medicaid which is available for purchase by certain persons; requiring the Director of the Department to seek any necessary waivers from the Federal Government to establish such a plan and to provide certain incentives to persons who purchase coverage through such a plan; including the Nevada Care Plan within the qualified health plans that are available through the Silver State Health Insurance Exchange; making an appropriation; and providing other matters properly relating thereto.

AB 374 attempts to expand health insurance coverage through the novel idea of letting individuals, otherwise ineligible for Medicaid, purchase Medicaid-like plans at their own full cost through the Silver State Health Insurance Exchange, with no federal or state subsidies. I applaud the sponsor for his creativity, and I believe that the concepts in this bill may play a critical role in future healthcare policy. However, AB 374 raises more questions than it answers, while adding more uncertainty to an industry that needs less. Both the problems AB 374 attempts to fix, and the solutions it proposes, need further study and analysis. Moving too soon, without factual foundation or adequate understanding of the possible consequences, could introduce more uncertainty to an already fragile healthcare market, and ultimately affect patient healthcare. Therefore, I cannot support AB 374.

I share the concerns about those Nevadans who may still find quality, affordable insurance coverage out of their reach. It was because of those very concerns that led me to opt-in to the Affordable Care Act (“ACA”), expanding Medicaid and the Child Health Insurance Programs, and implementing Nevada’s own health insurance exchange. But that decision was made only after much research and thoughtful consideration of how those changes would affect the entirety of Nevada’s healthcare system. Given the short timeframe and heavy workload of the recent Legislative Session, AB 374 was not subject to the same deliberative process that informed the decision to opt-in to the ACA.

For the most part, AB 374 offers an undeveloped remedy to an undefined problem. The bill assumes the existence of an insurance-coverage gap. Supposedly, there are a number of individuals who do not qualify for Medicaid, do not have employer-provided insurance, and cannot otherwise afford private insurance. AB 374 also presupposes that these individuals would want and could afford a Medicaid-like plan, and that these plans would ultimately be accepted by enough healthcare providers to make them worth the cost. All of these assumptions may be sound, but there is an insufficient factual record to adopt such a dramatic shift in healthcare policy.

Furthermore, absent a more firm evidentiary footing, there is just as much reason to assume negative unintended consequences as positive ones. For instance, those insured by this new Medicaid-like plan may not come from the pool of uninsured, but from those who already have insurance coverage. Market forces or personal choice may end up promoting coverage substitution rather than filling a coverage gap. For those losing a plan they like in favor of a plan they do not, the downside is apparent. But this potential shift in coverage has other, less obvious effects as well.

Access to health insurance and access to health care, while related, are not the same. Providing more insurance does not automatically (or even necessarily) result in more healthcare. Most healthcare providers have to maintain a mix of patients on Medicaid, Medicare, and commercial insurance. It is how they stay in business, since Medicaid and Medicare reimbursement rates are often significantly lower than those paid by commercial insurance. If more people shift (voluntarily or not) from commercial insurance to Medicaid-like insurance, that provider mix may prove unstable, resulting in fewer doctors seeing Medicaid patients, or fewer doctors all together. The net result could mean greater wait times and less provider availability for all Nevadans, whether they are currently on Medicaid, Medicare, or commercial insurance.

These and other worries generated significant opposition to AB 374 from the broader healthcare community. Groups such as the Nevada Hospital Association, HCA Health Care, the Nevada Rural Hospital Association, the Nevada State Medical Association, Anthem BlueCross BlueShield, and various other Managed Care Organizations (“MCO”) all expressed concerns with the bill.

Fortunately, my veto of AB 374 does not end the conversation about potential coverage gaps or possible solutions, including Medicaid-like solutions. In fact, given the possibility that changes in federal law may put Nevada’s expanded Medicaid population at risk of

losing their coverage, the ability for individuals to purchase Medicaid-like plans is something that should be considered in depth. If done correctly, the proposals in AB 374 could provide a necessary safety net for those who may no longer have access to traditional Medicaid. There are at least three possible avenues to give the ideas in AB 374 the examination they deserve.

First, I recently signed Senate Bill 394, which, among other things, requires the Legislative Committee on Health Care to study how Nevada might establish a program similar to Medicaid Managed Care available for purchase. The legislative study will bring together legislators, state agencies, and other subject-matter experts to review how the State might implement a Medicaid MCO plan, for purchase.

Second, in my veto message on Assembly Bill 382 I mentioned the possibility of signing an Executive Order that forms a committee of stakeholders to study the issue of "surprise" billing for emergency healthcare. This committee would bring more informed recommendations to the 2019 Legislative Session and beyond. Should I end up issuing such an Executive Order, it would be prudent to also add for consideration and study both the problems and solutions raised by AB 374.

Finally, it bears mentioning that NRS 686B.180 may already provide a path for the State's Insurance Commissioner to work with commercial insurance companies to fill coverage gaps if and where they might exist.

For these reasons, I veto Assembly Bill 374 and return it without my signature or approval.

Sincere regards,



BRIAN SANDOVAL
Governor

Enclosure

cc: The Honorable Mark Hutchison, President of the Senate (without enclosure)
The Honorable Jason Frierson, Speaker of the Assembly (without enclosure)
The Honorable Aaron Ford, Senate Majority Leader (without enclosure)
Claire J. Clift, Secretary of the Senate (without enclosure)
Susan Furlong, Chief Clerk of the Assembly (without enclosure)
Brenda Erdoes, Esq., Legislative Counsel (without enclosure)