

**ONE HUNDRED SIXTH LEGISLATURE - SECOND SESSION - 2020**  
**COMMITTEE STATEMENT**  
**LB774**

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**Hearing Date:** Tuesday January 21, 2020  
**Committee On:** Banking, Commerce and Insurance  
**Introducer:** Williams  
**One Liner:** Change requirements regarding credit for reinsurance

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

**Aye:** 8 Senators Gragert, Howard, Kolterman, La Grone, Lindstrom,  
McCollister, Quick, Williams

**Nay:**

**Absent:**

**Present Not Voting:**

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**Oral Testimony:**

**Proponents:**

Senator Matt Williams  
Bruce Ramge  
Brennan Neville  
Robert Bell

**Representing:**

Introducer  
Nebraska Department of Insurance  
National Indemnity Company  
Nebraska Insurance Federation

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

LB 774 (Senator Williams) is a bill introduced on behalf of the Nebraska Department of Insurance to adopt the latest National Association of Insurance Commissioners' (NAIC) model updates to the Credit for Reinsurance Model Law. The changes implement the reinsurance collateral provisions of two international agreements recently entered into by the United States and the EU/UK and are intended to avoid federal preemption of this area. These changes are expected to be an NAIC accreditation standard for the Department. The legislation would provide, section by section, as follows:

Section 1 amends section 44-416.06. Section 1 creates and clarifies transactions in which credit is allowed when reinsurance is ceded to another assuming insurance company that meets specific requirements. Some of the specific requirements that must be met by the assuming insurer are:

The head office or domicile must be in any of the following "Reciprocal Jurisdictions": (a) an EU-member country (or any other non-US jurisdiction) that is subject to an in-force Covered Agreement, thereby addressing the elimination of reinsurance collateral requirements with U.S. ceding insurers; (b) a US jurisdiction (state) that meets the requirements for accreditation under the NAIC financial standards and accreditation program; and (c) a non-US jurisdiction recognized as a "qualified jurisdiction" that meets additional requirements consistent with those set forth in the Covered Agreements.

Maintenance of minimum capital and surplus amounts as set forth by the Director. Proof must be submitted yearly.

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Maintenance of a minimum solvency or capital ratio

Maintenance of a practice of prompt payment of claims under reinsurance agreements.

Section 1 also indicates that nothing contained in the text should be interpreted as precluding insurers from voluntarily providing information to the director.

Finally, Section 1 places an affirmative duty on the Director to create, maintain and publish a list of "reciprocal jurisdictions" and "assuming insurers" that meet the requirements of the act.

Section 2 amends section 44-416.09 to indicate that any rules or regulation promulgated by the Director shall not apply to a cessation to an assuming insurer that meets with the conditions set forth in Section 1.

Section 3 is the amendatory repealer.

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**Explanation of amendments:**

The committee amendments (AM2558) contain the original provisions of LB774 and also the provisions of three other bills relating to the subject of insurance that were heard and advanced by the Banking, Commerce and Insurance Committee and, along with committee amendments, if any, made part of the committee amendments to LB774 on an 8-0 vote of the members of the committee.

Those three bills are as follows:

1. LB886 (Arch) Prohibit certain acts by health insurers and network providers and list a deceptive trade practice (Section 3 of AM2558)

This bill, as introduced, would enact a new section in the insurance statutes and would amend section 87-302 to provide that it is a violation of the Uniform Deceptive Trade Practices Act for a health care facility to (1) advertise or hold itself out as a network provider, including making any statement that it takes or accepts any health insurance, unless the facility is a network provider of the health insurer or (2) place the name or logo of a health insurer in any marketing materials if the facility is not a network provider for the plan administered by the health insurer.

The bill would provide that any contract entered into between a health care facility and a person covered by a health insurer is voidable by the covered person if the facility violates the provisions of the bill.

The committee amendments to LB886 (AM2276) would specify that a health care facility may advertise or hold itself out as a network provider if the facility is a network provider of the health insurer.

The committee amendments would provide that a health care facility shall not place the name or logo of a health insurer in any signage or marketing materials if the facility is not a network provider for the "health insurer" instead of for the "plan of health insurance, health benefits, or health care services administered by the health insurer."

The committee amendments would eliminate all amendments to section 87-302 and therefore violations would not be deceptive trade practices under the Uniform Deceptive Trade Practices Act.

Oral Testimony:

Proponents:

Senator John Arch, Introducer

Eric Dunning, Blue Cross and Blue Shield of NE, NE State Chamber of Commerce

Bruce Ramge, Nebraska Department of Insurance

Jay McLaren, Medica

Jana Danielson, Nebraska Medicine, Nebraska Hospital Association  
Robert Bell, Nebraska Insurance Federation  
Coleen Nielsen, American Health Insurance Plans

Opponents: None  
Neutral: None

Vote Results:

Aye: Senators Gragert, Howard, LaGrone, Lindstrom, McCollister, Quick, Williams

Nay:

Absent:

Present Not Voting: Senator Kolterman

2. LB954 (Lindstrom) Change insurance provisions relating to fees for dental services (Section 4 of AM2558)

This bill, as introduced, would change provisions relating to fees for dental services.

The bill would amend section 44-7,105 to provide that an individual or group health policy, certificate, contract, agreement or plan shall not include any restrictions on methods of claim payment for dental services in which the only acceptable payment method is a credit card payment or granting access to its dental service provider network contract to a third party unless the requirements of the bill are met.

The bill would provide that an insurer or any of its affiliates party to the dental services provider network contract may grant access to the dental services provider network contract to a third party if: (a) the insurer allows any provider who is part of the insurer's dental services provider network to choose not to participate in third-party access to the dental services provider network; (b) the insurer includes on its web site a listing identifying all third parties who have been granted such access to the dental services provider network contract and which is updated at least once every ninety days; and (c) the third party accessing the dental services provider network contract agrees to comply with all of the dental services provider network contract's terms.

The committee amendments to LB954 (AM2536) would strike the original sections and insert a new section:

The new section would provide for defined terms: (a) "contracting entity" (a person or entity that enters into direct contracts with providers for the delivery of dental services); (b) "dental carrier" (an insurance entity authorized to offer an insurance plan that provides dental services); (c) "dental services;" (d) "provider" (an individual entity that provides dental services or supplies); (e) "provider network contract;" and (f) "third party" (a person or entity that enters into a contract with a contracting entity or with another third party to gain access to the dental services or contractual discounts of a provider network contract).

The new section would provide that a dental insurance plan, contract, or provider network contract shall not include any restrictions on methods of claim payment for dental services in which the only acceptable payment method is a credit card payment. The new section would provide that a dental carrier may grant a third party access to a provider network contract, or a provider's dental services or contractual discounts provided pursuant to a provider network if, at the time the provider network contract is entered into or renewed, the dental carrier allows a provider who is part of a dental carrier's provider network to choose not to participate in third-party access to the provider network contract.

The new section would provide that if specified requirements are met a contracting entity may grant a third party access to a provider network contract, or a provider's dental services or contractual discounts provided pursuant to a provider

network contract.

The new section would provide that a provider is not bound by and is not required to perform dental treatment or services under a provider network contract granted to a third party in violation of this section.

Oral Testimony:

Proponents:

Senator Brett Lindstrom, Introducer

David O'Doherty, Nebraska Dental Association

Robert Bell, Nebraska Insurance Federation

Opponents: None

Neutral: None

Vote Results:

Aye:

Senators Gragert, Howard, Kolterman, LaGrone, Lindstrom, McCollister, Quick, Williams

Nay:

Absent:

Present Not Voting:

3. LB1199 (Lindstrom) Change provisions relating to motor vehicle service contract reimbursement insurance (Sections 5 to 8, 10 and 12 of AM2558)

This bill would amend sections 44-3520, 44-3521, and 44-3523 of the Motor Vehicle Service Contract Reimbursement Insurance Act and would enact a new section to be assigned within the act to change provision relating to motor vehicle service contract reimbursement insurance policies. The bill would provide, section by section, as follows:

Section 1 (section 5 of AM2558) would amend section 44-3520 to provide that new section 4 shall be assigned within the act.

Section 2 (section 6 of AM2558) would amend section 44-3521 to change the definition of "motor vehicle service contract reimbursement insurance policy" to provide that it means a policy of insurance issued to a motor vehicle service contract provider ("provider") to either provide reimbursement to the provider under the terms of the insured motor vehicle service contracts ("contracts") issued or sold by the provider or, in the event of the provider's nonperformance, to pay on behalf of the provider all covered contractual obligations incurred by the provider under the terms of the contracts issued or sold by the provider in this state.

Section 3 would amend section 44-3523 (section 7 of AM2558) to provide that no motor vehicle service contract reimbursement insurance policy ("policy") shall be issued, sold, or offered for sale in this state unless it states that the insurer will either reimburse or pay on behalf of the motor vehicle service contract provider ("provider") any covered sums the provider is legally obligated to pay or, in the event of the provider's nonperformance, will provide the service the provider is legally obligated to perform according to the provider's contracted obligations under the motor vehicle service contracts ("contracts") issued or sold by the provider in this state. This section would further provide that if covered service is not provided by a provider within sixty days of proof of loss by the service contract holder, the service contract holder is entitled to apply directly to the insurer providing the policy.

This section would also repeal provisions which provide that a policy shall reimburse the provider for all repair costs incurred under the contract from the first dollar of coverage. This section would also repeal provisions which provide that a policy shall not require or allow a provider to assume any portion of direct or first dollar liability for repairs under a contract. Finally, this section would also repeal provision which provide that a policy shall not include any provision whereby the insurer provides coverage in excess of reserves held by the provider or only in the event of the provider's insolvency or default.

New section 4 (section 8 of AM2558) would provide that it is the responsibility of the motor vehicle provider ("provider") issuing a motor vehicle service contract ("contract") to file a true and correct copy of the contract form, motor vehicle service contract reimbursement policy, and the notice of filing form with the Department of Insurance. This section would provide for required provisions in a contract. This section would provide that if the Director of Insurance determines that a provider has failed to comply with the Motor Vehicle Service Contract Reimbursement Act, the director may issue an order to a provider to cease and desist from selling or offering for sale any contracts.

Section 5 (section 10 of AM2558) provides for an operative date of January 1, 2021.

Section 6 (section 12 of AM2558) provides for the repealers of the amendatory sections.

Oral Testimony:

Proponents:

Senator Brett Lindstrom, Introducer

Stephen McDaniel, Service Contract Industry Council

Opponents: None

Neutral: None

Vote Results:

Aye: Senators Gragert, Howard, Kolterman, LaGrone, Lindstrom, McCollister, Quick, Williams

Nay:

Absent:

Present Not Voting:

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Matt Williams, Chairperson