

# **LEGISLATIVE REVIEW OF ADOPTED REGULATIONS INFORMATIONAL STATEMENT AS REQUIRED BY NRS 233B.066**

LCB FILE NO. R134-24  
Dental Loss Ratio

The following statement is submitted by the State of Nevada, Department of Business and Industry, Division of Insurance (“Division”) for adopted amendments to Nevada Administrative Code (“NAC”) Chapter(s) 686B.

1. A clear and concise explanation of the need for the adopted regulation.

This regulation is necessary as it is mandated to be promulgated under state law as outlined in NRS 686B.125 as amended by Senate Bill 393 (“SB 393”) of the 82<sup>nd</sup> legislative session. Insurers and other entities are required to file annual reports with the Commissioner detailing the losses incurred and premiums earned for the reporting year. The proposed regulation establishes the provisions for insurers and other entities to be able to fulfill the reporting requirements of the bill.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

(a) A description of how public comment was solicited:

Public comment was solicited by emailing the proposed regulation, notice of workshop, notice of intent to act upon the regulation, and determination of small business impact statement to persons on the Division’s mailing list requesting notification of proposed regulations. The documents were also made available on the website of the Division, <http://doi.nv.gov/>, the website of the Nevada Legislature, <http://www.leg.state.nv.us>, and the Nevada Public Notice website, <https://notice.nv.gov/>. The documents were also emailed to the main library for each county in Nevada.

Public comment was also solicited at the workshops held on January 13, 2025 and January 27, 2025, and at the hearing held on November 7, 2025. The public workshops and hearing took place virtually via Webex and Microsoft Teams and in person at the Division’s offices located at 1818 E. College Pkwy, Carson City, Nevada 89706 and 3300 W. Sahara Ave., Las Vegas, Nevada 89102.

(b) The Division has received comments from the National Association of Dental Plans (NADP), Delta Dental, Tri-Strategies, and Dragon Dental regarding the proposed regulation.

- 1) NADP and Delta Dental suggested amending the loss ratio calculation or definition of “loss” to be consistent with the Medical Loss Ratio defined in 45 CFR 158.
- 2) NADP and Delta Dental expressed concerns with the implementation timeline and/or the three-year aggregation of the data for posting to the Division’s website.
- 3) Delta Dental suggested excluding small group from the reporting requirements since small

group is excluded from meeting the 75% DLR requirement.

- 4) NADP suggested establishing a 1,000 life-years credibility threshold to exempt carriers with highly variant claims data from reporting.
- 5) Tri-Strategies on behalf of the Nevada Dental Association proposed to strike the word "only" from section 2.
- 6) Tri-Strategies proposed a considerable addition to section 4 to specify definitions.
- 7) Tri-Strategies proposed a new section 5 which requires the Division to publish loss ratios for three consecutive years.
- 8) Tri-Strategies proposed a new section 6 stating again the 75% loss ratio requirement.
- 9) Tri-Strategies proposed a new section 7 mandating the Commissioner require carriers to rebate premiums if loss ratios exceed 75%.
- 10) Tray Abney spoke on behalf of NADP, AHIP, The American Council of Life Insurers and the Nevada Association of Health Plans. His statements repeated the suggestions in the written letter summarized above.
- 11) Dr. Mouhab Rizkallah spoke as the president of the American Alliance on Dental Insurance Quality. He spoke of how legislation was working in Massachusetts and reiterated the suggestions from the letter from Tri-Strategies summarized above.
- 12) Paul Klein from Tri-Strategies spoke on behalf of the Nevada Dental Association and affirmed Dr. Mouhab Rizkallah's remarks.
- 13) Dr. Richard Dragon, DMD, also provided written comment regarding the development of the 75% loss ratio and his work on SB 393 while he was the Nevada Dental Association Council on Government Affairs Chairperson.

(c) An explanation of how other interested persons may obtain a copy of the summary:

The summary in part 2(b) above reflects the public comments and testimony that transpired with regard to regulation R134-24. A copy of said summary may be obtained by contacting [regs@doi.nv.gov](mailto:regs@doi.nv.gov).

3. The number of persons who:

- (a) Attended the hearing: 27
- (b) Testified at the hearing: 5
- (c) Submitted to the agency written statements: 6

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in part 3(b) and (c), as provided to the agency:

**Testified at the hearing:**

Name	Entity/Organization Represented	Business Address	Telephone No./Business Telephone No.	E-Mail Address
Jeremy Christensen	Division of Insurance	1818 E. College Pkwy., Ste. 103, Carson City, NV 89706	(775) 687-0730	jchristensen@doi.nv.gov
Tray Abney	AHIP	11140 Parma Way, Reno, NV 89521	(775) 443-5561	
Dr. Mouhab Rizkallah				
Paul Klein	TriStrategies		(775) 830-7285	paul@tri-strategies.com
Jack Childress	Division of Insurance	1818 E. College Pkwy., Ste. 103, Carson City, NV 89706	(775) 687-0731	jchildress@doi.nv.gov

**Submitted to the agency written statements:**

Name	Entity/Organization Represented	Business Address	Telephone No./Business Telephone No.	E-Mail Address
Paul Klein	TriStrategies		(775) 830-7285	paul@tri-strategies.com
Jeff Album	Delta Dental	3241 Kilgore Rd., Rancho Cordova, CA 95670	(415) 972-8418	jalbum@delta.org
Richard J. Dragon, DMD	Dragon Dental	1234 Waterloo Ln., Gardnerville, NV 89410	(775) 721-9201	rick@dragondental.org
Bianca Balale	NADP (also on behalf of AHIP, ACLI, and NvAHP)		(972) 430-6723	bbalale@nadp.org

5. A description of how comments were solicited from affected businesses, a summary of their responses, and an explanation of how other interested persons may obtain a copy of the summary.

(a) A description of how comments were solicited from affected businesses:

Comments were solicited from affected businesses in the same manner as they were solicited from the public. Please see the description provided above in response to part 2(a).

(b) A summary of the responses from affected businesses:

All public comments summarized above were from affected business; either representatives for the dental providers or representatives for the dental carriers.

(c) An explanation of how other interested persons may obtain a copy of the summary:

The summary in part 5(b) above reflects the public comments and testimony that transpired

with regard to regulation R134-24. A copy of said summary may be obtained by email request to [regs@doi.nv.gov](mailto:regs@doi.nv.gov).

6. If after consideration of public comments, the regulation was adopted without changing any part of the proposed regulation, provide a summary of the reasons for adopting the regulation without change.

The Division considered each of the arguments provided by industry representatives who were opposed to various aspects of the proposed regulation. Ultimately, the Division chose to adopt the proposed regulation without any changes, for the reasons explained below.

- a) Response to the suggestions in comment 1: During the drafting of SB 393, this was considered, but with a higher loss ratio threshold of 80%. After consultation with the Division the decision was ultimately made to simplify the reporting requirement to losses/premiums and reduce the loss ratio threshold to 75%, the 5% difference being the approximate average observed by applying the criteria in 45 CFR 158. As such, the Division's view is that this interpretation would not be consistent with the intention of the enacted legislation.
- b) Response to the concerns in comment 2: To be in compliance with the statute reporting requirements, which are explicitly stated, the Division must continue as outlined. The Division doesn't view this as an undue burden as this data is already used in carrier rate making and should be readily available by May 1st. The March 31st run out date is to allow payments to be made for claims incurred during the previous calendar year and is given to minimize any effect due to any Incurred But Not Paid (IBNP) amounts. This run out for the experience period is the same used in pricing the far more complex major medical plans.
- c) Response to the suggestions in comment 3: During the drafting of SB 393, small group was intentionally excluded from the 75% DLR requirement and intentionally included in the reporting requirement. This was confirmed through the Division's direct meetings with the legislators. We view this recommendation as being in conflict with the legislative intent.
- d) Response to the suggestions in comment 4: The Division addressed this concern during the drafting of SB 393. Through discussions with consulting actuaries, we determined that there wasn't an industry standard of credibility that could be relied upon, and drafters were hesitant to exempt carriers from reporting. It was decided that any discussions regarding credibility would be handled internally at the Division in our determinations of compliance with the 75% loss ratio, and any carriers that had non-credible data could be exempted from penalties outlined in NRS 686B.125(7) at the Division's discretion. Additionally, any such carriers would have their reported loss ratios annotated on the Division's website to indicate that they are not statistically reliable.
- e) Response to the suggestions in comment 5: The word "only" is very deliberate. Without it, the statute applies to indemnity policies which do not operate on a medical expense basis, are typically low premium requiring large commission percentages making it impossible to operate under a 75% loss ratio, thus forcing a market exit for such products. This would have an adverse impact on consumer choice and the NV insurance market as a whole. The language change would also make the statute apply to major medical policies which may just pay for emergency dental care and Temporomandibular Joint (TMJ) disorders. Major medical already meets an 80% Medical Loss Ratio requirement pursuant to the Affordable Care Act

(ACA), which they report annually with their rate filings. Additional reporting causes an undue regulatory burden.

f) Response to the suggestions in comment 6: The Division finds this addition to be redundant to other items in the statute and regulation which clearly define the loss ratio to be the ratio of loss to premiums where losses and premiums are specifically defined in the regulation.

g) Response to the suggestions in comment 7: This suggestion conflicts with the clear language of the statute. This was specific in the legislative deliberations as it helps to reduce the massive variations in loss ratio experienced by small insurance providers that have low membership. Publishing annual rates would be prejudicial to the smaller insurance carriers, potentially leading to declining enrollment and market exits. This would then further consolidate the dental insurance market to a few large carriers, reducing consumer choice and potentially adversely impacting provider compensation by further reducing their negotiating power.

h) Response to the suggestions in comment 8: The suggested additional section is redundant as it repeats the required 75% loss ratio already cited in the statute. The Division does not feel this is necessary to add clarity to the statute.

i) Response to the suggestions in comment 9: The discretion of the Commissioner to assess penalties was language in the statute specifically negotiated by the Division. The suggested section eliminates that discretion. This discretion is necessary to determine whether the carrier is truly out of compliance or just experiencing large statistical variance common to carriers with low membership. This discretion was again deliberate, and combined with the 3-year aggregation, to protect the small insurance providers with low data credibility. These providers may experience a 40% loss ratio one year and a 150% loss ratio the next. To force a rebate for the 40% loss ratio and make the carrier absorb the following 150% loss will force small carriers into default or market exit and cause damage to the overall insurance market.

j) Comments 10-12 have been addressed in a) – i) above.

7. (a) The estimated economic effect of the adopted regulation on the business which it is to regulate:

(1) Beneficial Effects:

i. Immediate: This should be a competitive and economic boost to insurers that already meet the minimum loss ratio requirements by prohibiting competitors from undercutting rates and benefits and profiting excessively.

ii. Long Term: Same benefit.

(2) Adverse Effects:

i. Immediate: There is no adverse impact anticipated.

ii. Long-Term: There is no adverse impact anticipated.

(b) The estimated economic effect of the adopted regulation on the public:

(1) Beneficial Effects:

i. Immediate: If a carrier exists that offers a product with rates expected to result in a loss ratio less than the currently mandated 75% loss ratio, the regulation will assist with the process of identifying the carrier and correcting the situation, ensuring that for consumers either benefits are increased, or premiums are reduced.:

- ii. Long-Term: Same benefit.

(2) Adverse Effects:

- i. Immediate: There is no adverse impact anticipated.
- ii. Long-Term: There is no adverse impact anticipated.

8. The estimated cost to the agency for enforcement of the adopted regulation.

There is no anticipated cost to the agency.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There is no regulatory overlap.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of those provisions.

There is no federal regulation for dental insurance to compare.

11. If the regulation establishes a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

There is no additional fee to be collected.