

**ADOPTED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R111-07

Effective January 30, 2008

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-8, NRS 679B.130 and 689B.0265.

A REGULATION relating to insurance; specifying the information which must be included in an actuarial memorandum submitted to the Commissioner of Insurance by an insurer that offers coverage under a policy of group health insurance to a guaranteed association; providing for the cancellation of such policies; and providing other matters properly relating thereto.

Section 1. Chapter 689B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this regulation.

Sec. 2. *“Actuarial memorandum” means a memorandum created and signed by a qualified actuary that justifies the actuarial opinion rendered by the actuary.*

Sec. 3. *“Actuarial opinion” means the conclusion drawn by an actuary from actuarial knowledge or from the application of one or more actuarial methods to a body of data.*

Sec. 4. *“Guaranteed association” has the meaning ascribed to it in NRS 689B.0265.*

Sec. 5. *An insurer that offers coverage under a policy of group health insurance to a guaranteed association must submit an actuarial memorandum to the Commissioner, which must include, without limitation:*

- 1. The purpose and scope of the actuarial memorandum;*
- 2. The numbers of the forms to which the rates will apply;*
- 3. A description of the benefits included in the coverage;*

4. *An explanation of how the base rate was developed;*
5. *The methodology used to determine the underwriting rate;*
6. *The actuarial assumptions used in establishing the rates;*
7. *Exhibits addressing all loads and factors considered in establishing the rates;*
8. *The basis used for the rate structure;*
9. *An attestation that the actuary has developed the rates in accordance with generally accepted actuarial practices, including that the rates are reasonable in relation to the benefits provided, are not inadequate and are not excessive or unfairly discriminatory; and*
10. *An actuarial certification that the actuary is qualified to render the actuarial opinion.*

Sec. 6. 1. *The actuarial memorandum required by section 5 of this regulation and the applicable rates must be submitted to and approved by the Commissioner annually.*

2. *After the submission of the initial actuarial memorandum, each subsequent actuarial memorandum submitted to the Commissioner by the insurer must, in addition to the items required by section 5 of this regulation, include, without limitation:*

- (a) *All changes in rates from the inception of coverage;*
- (b) *Any changes in actuarial assumptions;*
- (c) *All loss ratios from the inception of coverage;*
- (d) *If a change in rates is being proposed, projections of the loss ratio both before and after the rate change; and*
- (e) *The number of members in the guaranteed association.*

Sec. 7. *If the number of members, employees of members or employees of a guaranteed association or their dependents covered under a policy of group health insurance falls below 200 in violation of a contract between the insurer and the guaranteed association, the insurer*

must comply with the notice requirement of subsection 2 of NRS 687B.320 to cancel the policy.

Sec. 8. NAC 689B.010 is hereby amended to read as follows:

689B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 689B.012 to 689B.018, inclusive, *and sections 2, 3 and 4 of this regulation* have the meanings ascribed to them in those sections.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R111-07

The Commissioner of Insurance adopted regulations assigned LCB File No. R111-07 which pertain to chapter 689B of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

A workshop was held on November 13, 2007, and a hearing was held on November 20, 2007, at the offices of the Department of Business and Industry, Division of Insurance (“Division”), 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, with a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, Real Estate Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104, regarding the adoption of the regulation concerning actuarial memorandums for guaranteed associations.

Public comment was solicited by posting notice of the hearing in the following public locations: the Division’s Carson City and Las Vegas offices, Carson City Courthouse, Office of the Attorney General, the Donald W. Reynolds Press Center, Capitol Building Lobby, Capitol Building Press Room, Blasdel Building, Legislative Counsel Bureau, Nevada State Library, Carson City Library, Churchill County Library, Clark County District Library, Douglas County Library, Elko County Library, Esmeralda County Library, Eureka Branch Library, Humboldt County Library, Lander County Library, Lincoln County Library, Lyon County Library, Mineral County Library, Pershing County Library, Storey County Library, Tonopah Public Library, Washoe County Library, and White Pine County Library.

Notice was also e-mailed to members of the Commissioner’s Advisory Committee on Health Care and Insurance and interested parties of that Committee. In addition, the Division maintains a general list of interested parties, comprised mainly of insurance companies, agencies and other persons regulated by the Division. These persons were also notified of the hearing and that copies of the regulation could be obtained from or examined at the offices of the Division in Carson City.

The hearing was attended by one interested party in Carson City and three interested parties in Las Vegas.

After considering the comments by those attending the hearing, and by those who submitted written comments, the Commissioner has issued an order adopting the regulation, as amended, as a permanent regulation of the Division.

Based upon the testimony received at the hearing, the proposed regulation, LCB File No. R111-07, is revised as follows:

1. Section 1 is amended to read as follows:

Chapter 689B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to [5] **7**, inclusive, of this regulation.

2. A new section 2 is added to read as follows:

Sec. 2. “Actuarial memorandum” is a memorandum created and signed by a qualified actuary that justifies the actuarial opinion rendered.

3. A new section 3 is added to read as follows:

Sec. 3. “Actuarial opinion” is the conclusion drawn by an actuary from actuarial knowledge or from the application of one or more actuarial methods to a body of data.

4. Section 2 is amended to be section 4 and to read as follows:

Sec. [2] **4.** “Guaranteed association” has the meaning ascribed to it in NRS 689B.0265 [~~Chapter 458, Statutes of Nevada 2007, at p.2457~~].

5. Section 3 is amended to be section 5 and to read as follows:

Sec. [3] **5.** An insurer that offers coverage under a policy of group health insurance to a guaranteed association must submit an actuarial [~~opinion~~] **memorandum** to the Commissioner pursuant to paragraph (a) of subsection 3 of NRS 689B.0265 [~~Chapter 458, Statutes of Nevada 2007, at p. 2547~~], which must include, without limitation:

1. The purpose and scope of the actuarial [~~opinion~~] **memorandum**;
2. The numbers of the forms to which the rates will apply;
3. A description of the benefits included in the coverage;
4. An explanation of how the base rate was developed;
5. The methodology used to determine the underwriting rate;
6. The actuarial assumptions used in establishing the rates;
7. Exhibits addressing all loads and factors considered in establishing the rates;
8. The basis used for the rate structure;
9. An attestation that the actuary has developed the rates in accordance with generally accepted actuarial practices, including that the rates are reasonable in relation to the benefits provided, are not inadequate and are not excessive or unfairly discriminatory; and
10. An actuarial certification that the actuary is qualified to render the actuarial opinion.

6. Section 4 is amended to be section 6 and to read as follows:

Sec. [4] **6.** 1. The actuarial [~~opinion~~] **memorandum** required by section [3] **5** of this regulation and the applicable rates must be submitted to and approved by the Commissioner annually.

2. After submission of the initial actuarial [~~opinion~~] **memorandum**, each subsequent actuarial [~~opinion~~] **memorandum** submitted to the Commissioner by

the insurer must, in addition to the items required by section ~~[3]~~ 5 of this regulation, include, without limitation:

- (a) All changes in rates from the inception of coverage;
- ~~[(b) An analysis of actuarial assumptions as compared with actuarial experience;]~~
- ~~[(c)]~~ (b) Any changes in actuarial assumptions;
- ~~[(d)]~~ (c) All loss ratios from the inception of coverage;
- ~~[(e)]~~ (d) If a change in rates is being proposed, projections of the loss ratio both before and after the rate change; and
- ~~[(f)]~~ (e) The number of members in the guaranteed association.

7. Section 5 is amended to be section 7 and to read as follows:

Sec. ~~[5]~~ 7. 1. If the number of members, employees of members or employees of a guaranteed association or their dependents covered under a policy of group health insurance falls below 200, the insurer ~~[shall immediately notify the Commissioner]~~ **must comply with the termination notice pursuant to NRS 687B.320.**

~~[2. If the Commissioner determines, in accordance with the provisions of paragraph (g) of subsection 1 of NRS 687B.320, that the continuation of the policy would violate, or place the insurer in violation of, subsection 1 of NRS 689B.0265 (Chapter 458, Statutes of Nevada 2007, at p. 2547) or any other provision of the Nevada Insurance Code, the insurer shall provide notice of the cancellation of the policy of group health insurance to each person insured under the policy in accordance with the provisions of subsection 2 of NRS 687B.320.]~~

These changes are necessary to ensure that the actuarial memorandum provides support for the actuarial opinion.

The economic impact of the regulation is as follows:

- (a) On the business it is to regulate: The proposed regulation requires the health insurance carrier to support the actuarial opinion with a written actuarial memorandum. This cost is minimal since, in rendering the opinion, the actuary would have had to address some of the required items in the memorandum.
- (b) On Small Business: The proposed regulation should not have any impact upon small business since the regulation affects health carriers and they are not small businesses.
- (c) On the Public: This regulation will ensure that the rates for the association are reasonable in relation to the benefits provided, are not inadequate and are not excessive or unfairly discriminatory.

The Division anticipates a nominal expense to enforce the proposed regulation. The Division is not aware of any overlap or duplication of the regulation with any state, local or federal regulation.