MINUTES OF THE
LEGISLATIVE COMMISSION'S
SUBCOMMITTEE TO REVIEW REGULATIONS
NOVEMBER 22, 2013

The meeting of the Legislative Commission's Subcommittee to Review Regulations was called to order by Chair Marilyn Kirkpatrick at 1:09 p.m. on November 22, 2013, at the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada and via videoconference at the Legislative Building, Room 3138, Carson City, Nevada. The Agenda is included as Exhibit A and the Attendance Roster is included as Exhibit B. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Kelvin A. Atkinson, District No. 4
Senator Mo Denis, District No. 2
Assemblywoman Marilyn Kirkpatrick, Chair, District No. 1
Assemblyman Lynn D. Stewart, District No. 22

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Senator James Settelmeyer, District No. 17
Assemblywoman Teresa Benitez-Thompson, District No. 27

COMMITTEE MEMBERS PRESENT VIA TELEPHONE:

Assemblyman Ira Hansen, District No. 32

STAFF MEMBERS PRESENT:

Brenda Erdoes, Legislative Counsel
Risa Lang, Chief Deputy Legislative Counsel
Angela Hartzler, Deputy Administrator, Legal Division, Legislative Counsel Bureau
Olivia Lodato, Secretary, Legal Division, Legislative Counsel Bureau

OTHERS PRESENT:

Adam Plain, Insurance Regulation Liaison, Division of Insurance, Department of Business and Industry

Chair Kirkpatrick opened the meeting of the Subcommittee to Review Regulations. She requested a roll call of members present.

Mrs. Hartzler called the roll. All the members were present including Mr. Hansen via telephone.

Chair Kirkpatrick asked if there was any public comment in Las Vegas or Carson City. As there was none, she opened discussion on Regulation R074-13, a regulation relating to health

insurance; establishing procedures for the certification of exchange enrollment facilitators; and establishing duties for exchange enrollment facilitators.

Assemblyman Hansen had questions about section 18, number 4 and unsuitable persons as mentioned in Section 41.3.

Chair Kirkpatrick said the regulation was codifying existing practices.

Mr. Adam Plain, Insurance Regulation Liaison, Division of Insurance, said they must disclose to the client all the health benefit plans they are eligible for and cannot selectively choose to disclose or not disclose certain plans the potential enroller was eligible to use.

Assemblyman Hansen asked Mr. Plain to explain how the regulation interlinks with the state plan and the federal government plan.

Mr. Plain said the federal Affordable Care Act required states to set up programs for navigators to assist consumers in enrolling in health insurance through the state exchanges or market places. The authority to do so was granted to the states. Nevada chose to set up their own state program entitled Exchange Enrollment Facilitators which passed as A.B. 425 last session and was codified as NRS 695J. It gave the Division of Insurance the authority to certify enrollment facilitators to ensure they meet certain minimum requirements in their dealings with the public. He said it indicated what precertification education was required; the passing score on the certification test, and what sort of continuing education was required before they were allowed to renew their certification.

Assemblyman Hansen said the Affordable Care Act, as originally intended, was temporarily suspended and people may keep their current plans. He asked if the regulation was impacted in any way.

Mr. Plain said the regulation only pertained to the certification for the enrollment facilitators. He said any impacts on what plans were or were not available were not affected by this regulation.

Chair Kirkpatrick said the regulations were consumer protection practices being put in place to ensure that people are qualified to give out the information.

Mr. Plain replied she was correct. The federal Affordable Care Act prescribed certain minimum requirements for the navigators. The state of Nevada adopted more stringent standards to ensure the consumers were not affected by bad players in the market place.

Assemblyman Stewart asked if the regulations were specific to federal law and state law. He said if a facilitator had years of experience in the insurance business he still had to take the specific classes to qualify in this narrow area.

Mr. Plain replied he was correct. He said because the Affordable Care Act expanded the scope into Medicaid eligibility, it was not a function normally covered by people with experience in health insurance. He added anyone wishing to become a certified exchange enrollment facilitator, needed to take the requisite precertification education regardless of their background.

Assemblyman Stewart asked if the classes were specifically directed toward the Affordable Care Act and if the exchange program would have specific knowledge in those areas.

Mr. Plain said Section 15 of the proposed regulation detailed the minimum requirements for the educational programs. He said 15 hours of instruction are required in 8 or 9 specific topics related to health care, the Affordable Care Act, Medicaid, government regulations, and ethics.

Assemblywoman Benitez- Thompson referred to Section 10 of the proposed regulation. It discussed the ability of the Division to contract out to do the precertification, certification or continuing education programs. She said Section 13 states that instructors needed to be within the Nevada system of higher education. She asked if there was a system within the Nevada System of Higher Education in which people could take courses, but also through a private contractor.

Mr. Plain said Sections 10 and 13 are not closely related. He said Section 10 authorized the Commissioner of Insurance to contract with an outside agency to handle the administrative duties of the precertification and continuing education. Section 13 of the regulation indicated the qualifications an instructor for a specific course needed. He said typically the courses offered for precertification education were done through third party contractors.

Assemblywoman Benitez-Thompson said a teacher within the system could teach under the private contractor.

Mr. Plain replied she was correct. Someone vetted by the Nevada System of Higher Education was presumed to have the qualifications to teach the course.

Assemblywoman Benitez-Thompson asked if there were many private contractors who did the work or was it a new venture.

Mr. Plain said it was a bit of both; a new venture for this type of education for enrollment facilitators had never existed. The Division reached out to current contracted entities who provided prelicensing education to see if they were interested in providing the course of education.

Senator Settelmeyer said he thought the reason for the meeting today was to codify A.B. 425 into regulation, the emergency executive regulation pertaining to the subject. He asked about all known benefit plans. He said to require someone to disclose all benefit plans might exceed the knowledge of someone selling insurance plans. He had questions regarding Section 24, subsection 3 (a) and (b). He said the course must be designed to increase knowledge of principles and coverage of insurance and public assistance programs. He asked if the public assistance programs were ones which helped with medical insurance. He said it seemed too broad.

Mr. Plain said Section 24, subsection 3, paragraph (a) did not exist in the emergency regulation. It did not cover continuing education because they knew a permanent regulation was needed prior to any certified exchange enrollment facilitator actually needing continuing education. The proposed education requirements were over a 3 year span. He said the section could be read broadly, but at the same time Medicaid was a public assistance program. He said the facilitators needed some knowledge of it.

Senator Settelmeyer asked why it was not crafted tight enough so it specified only public assistance programs dealing with insurance. He said it was so broad someone could be told they needed to teach all public assistance programs.

Mr. Plain said any course of continuing education must be approved by the Commissioner of Insurance prior to being offered. He said if a course presented for approval provided inappropriate material or programs not applicable to a specific entity, the Commissioner had the discretion to not approve the proposed course.

Chair Kirkpatrick said it appeared the regulation only applied to this chapter of the statute. She asked if that helped tighten the language.

Mr. Plain replied he agreed because the underlying authority for the chapter was tied to the NRS 695J. He said the regulation can only be construed to allow those things allowed under that chapter.

Ms. Erdoes said Mr. Plain's response was the answer to both questions about all benefit plans. She said it was limited to public assistance programs that were part of the exchange or affected the exchange. It only dealt with the exchange and the benefits there.

Senator Denis said it appeared the permanent regulation was basically the emergency regulation. He asked what the difference was between the two regulations.

Mr. Plain said the permanent regulation was the emergency regulation with the continuing education provisions added. The technical difference was the emergency regulation expired 120 days after it was filed with the Secretary of State. The permanent regulation had no expiration date.

Senator Denis asked if there were any other changes needed for the regulation.

Mr. Plain replied no other changes were necessary.

Chair Kirkpatrick asked if there were any further questions.

ASSEMBLYMAN STEWART MOVED TO APPROVE REGULATION R074-13 AS WRITTEN.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Kirkpatrick opened the discussion for public comment. She said it truly was an emergency regulation. She said the next Legislative Commission meeting was scheduled to meet in late December. As there was no comment or further business, she adjourned the meeting at 1:30 p.m.

RESPECTFULLY SUBMITTED:

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Olivia Lodato, Secretary

APPROVED BY:

_____
Assemblywoman Marilyn Kirkpatrick, Chair
Legislative Commission's Subcommittee to Review Regulations

Date: _____

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EXHIBITS

Committee Name: **LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO REVIEW REGULATIONS**

Date: November 22, 2013 Time of Meeting: 1:00 p.m.

	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Adam Plain	Letter regarding R074-13

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