**PROPOSED REGULATION OF THE**

**DIVISION OF INSURANCE OF THE**

**DEPARTMENT OF BUSINESS AND INDUSTRY**

**LCB File No. R089-98**

June 29, 1998

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

AUTHORITY: §§2-8, 10, 11, 12 and 14-19, NRS 679B.130; §§9 and 13, NRS 679B.130 and 686A.230.

**Section 1.** Chapter 686A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

**Sec. 2.** *"Agent" has the meaning ascribed to it in NRS 683A.030.*

**Sec. 3.** *"Broker" has the meaning ascribed to it in NRS 683A.040.*

**Sec. 4.** *"Commissioner" means the commissioner of insurance.*

**Sec. 5.** *"Division" means the division of insurance of the department of business and industry.*

**Sec. 6.** *"Financial planner" means an agent or broker who has successfully completed a course of instruction required for designation as a financial planner by a recognized professional association of financial planners.*

**Sec. 7.** *"Health insurance" includes any:*

*1. Contract for hospital, medical or dental services entered into pursuant to chapter 695B of NRS;*

*2. Health care plan provided pursuant to chapter 695C of NRS;*

*3. Plan for dental care provided pursuant to chapter 695D of NRS; or*

*4. Plan for prepaid limited health service provided pursuant to chapter 695F of NRS.*

**Sec. 8.** *1. Except as otherwise provided in this section, an insurer shall not:*

*(a) Deny or refuse to accept an application for insurance;*

*(b) Refuse to issue or renew a policy of insurance;*

*(c) Cancel, restrict or otherwise terminate a policy of insurance; or*

*(d) Charge a person for insurance coverage a rate that is different from the rate that the insurer charges another person for the same insurance coverage,*

*solely because the applicant or insured person is, has been or may be a victim of an act that constitutes domestic violence pursuant to NRS 33.018.*

*2. Nothing in this section prohibits an insurer from taking any of the actions described in subsection 1 upon the basis of:*

*(a) The historical loss experience of the applicant or insured person;*

*(b) A medical condition with which the applicant or insured person is afflicted; or*

*(c) Any other reason not otherwise prohibited by law.*

*3. The prohibition set forth in subsection 1 does not apply with respect to the following lines of insurance:*

*(a) Ocean marine insurance.*

*(b) Workmen's compensation insurance.*

*(c) Property insurance for business and commercial risks.*

*(d) Casualty insurance for business and commercial risks other than insurance covering the liability of a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS.*

**Sec. 9.** *1. Except as otherwise provided in subsection 2, any agreement for consultation or related advice which is entered into by an agent who is also licensed as a broker of casualty, property or surety insurance may, with respect to property, casualty or surety insurance that the agent sells to businesses, provide for the agent to receive:*

*(a) A commission paid by the insurer;*

*(b) A fee paid by the insured; or*

*(c) A combination of a commission paid by the insurer and a fee paid by the insured.*

*2. The provisions of subsection 1 do not authorize an agent to receive a commission or fee that is otherwise prohibited by a different agreement between the agent and insurer.*

*3. If an agent and an insured enter into an agreement pursuant to subsection 1 that provides for the agent to receive a fee, the agreement must be expressed in the form of a written contract. The written contract must:*

*(a) Set forth the full amount of compensation that the agent will receive pursuant to the agreement;*

*(b) Be signed by the agent and the insured before the completion of any transaction that will, pursuant to the agreement, entitle the agent to receive compensation; and*

*(c) Be retained by the agent for not less than 5 years.*

**Sec. 10.** NAC 686A.010 is hereby amended to read as follows:

686A.010 As used in this chapter unless the context otherwise requires **[**:

1. "Commissioner" means the commissioner of insurance.

2. "Division" means the division of insurance of the department of business and industry.**]** *, the words and terms defined in sections 3, 4 and 5 of this regulation have the meanings ascribed to them in those sections.*

**Sec. 11.** NAC 686A.210 is hereby amended to read as follows:

686A.210 1. No agent, broker **[**,**]** or insurer may participate in any transaction in which an insured is forced to cancel existing coverage on property which he is transferring to another and purchase other coverage on newly acquired property if the coverage is adequate for the newly acquired property.

2. This section applies to all agents, brokers **[**,**]** and insurers, including *, without limitation,* lenders which issue coverage as agents and agencies with which the lender is in any way connected.

*3. As used in this section, "agent" has the meaning ascribed to it in NRS 683A.030.*

**Sec. 12.** NAC 686A.320 is hereby amended to read as follows:

686A.320 As used in this section and NAC 686A.330 and 686A.340, unless the context otherwise requires **[**:

1. "Financial planner" means an agent or broker who has successfully completed a course of instruction required for designation as a financial planner by a recognized professional association of financial planners.

2. "Health insurance" includes any:

(a) Contract for hospital, medical, or dental services entered into pursuant to chapter 695B of NRS;

(b) Health care plan provided pursuant to chapter 695C of NRS;

(c) Plan for dental care provided pursuant to chapter 695D of NRS; or

(d) Plan for prepaid limited health service provided pursuant to chapter 695F of NRS.**]** *, the words and terms defined in sections 2, 6 and 7 have the meanings ascribed to them in those sections.*

**Sec. 13.** NAC 686A.330 is hereby amended to read as follows:

686A.330 1. Any agreement for consultation or related advice which is entered into by a financial planner, *life or health insurance* agent **[**,**]** *or* broker, or insurance consultant must be in writing and must contain:

(a) The name and address of the financial planner, *life or health insurance* agent **[**,**]** *or* broker, or insurance consultant;

(b) The name and address of any person or entity licensed pursuant to Title 57 of NRS which he represents;

(c) A description of any license he holds;

(d) A description of the fee to be charged and the services to be provided under the agreement;

(e) A provision allowing the client, without penalty, to rescind the agreement within 10 days after it is entered into; and

(f) A statement of whether the financial planner **[**, agent,**]** *or life or health insurance* agent **[**,**]** or broker is to receive any commission or other compensation for his services in addition to the fee paid by the client.

2. Each client or prospective client of a financial planner, *life or health insurance* agent **[**,**]** *or* broker, or insurance consultant must be provided with a copy of the agreement.

*3. Pursuant to this section, a financial planner, life or health insurance agent or broker, or insurance consultant shall not charge a fee except with respect to:*

*(a) Group life or group annuity products provided pursuant to chapter 688A or 688B of NRS; and*

*(b) Group health products provided pursuant to chapter 689B of NRS.*

**Sec. 14.** NAC 686A.420 is hereby amended to read as follows:

686A.420 As used in NAC 686A.410 to 686A.455, inclusive, unless the context otherwise requires, the following words and terms have the meanings ascribed to them:

1. *"Agent" has the meaning ascribed to it in NRS 683A.030.*

*2.* "Buyer's guide" means a document which contains, and is limited to, the language contained in the appendix* to this regulation or language approved by the commissioner.

**[**2.**]** *3.* "Cash dividend" means the current illustrated dividend which can be applied toward payment of the gross premium.

**[**3.**]** *4.* "Generic name" means a short title which is descriptive of the premium and benefit pattern of a policy or a rider.

**[**4.**]** *5.* This "regulation" means NAC 686A.410 to 686A.455, inclusive.

*The appendix is not codified but is available in the office of the secretary of state or the division.

**Sec. 15.** NAC 686A.510 is hereby amended to read as follows:

686A.510 For the purposes of NAC 686A.510 to 686A.570, inclusive, the words and terms defined in NAC 686A.516 to 686A.530, inclusive, *and section 2 of this regulation* have the meanings ascribed to them in those sections.

**Sec. 16.** NAC 686A.600 is hereby amended to read as follows:

686A.600 1. NAC 686A.600 to 686A.680, inclusive, define certain minimum standards, violations of which, with a frequency which indicates a general business practice, will be deemed to constitute unfair claims settlement practices.

2. NAC 686A.600 to 686A.680, inclusive, apply to all persons and to all insurance contracts or policies except policies of **[**industrial or**]** surety insurance.

3. Acts not specified in NAC 686A.600 to 686A.680, inclusive, may also be deemed to be violations of NRS 686A.310.

**Sec. 17.** NAC 686A.665 is hereby amended to read as follows:

686A.665 1. Every insurer shall acknowledge the receipt of a claim notice within 20 working days *after receipt of the claim notice* unless payment of the claim is made within that time. If acknowledgment is made by means other than writing, an appropriate dated notation of the acknowledgment must be made in the claim file of the insurer. Notice given to an agent of an insurer is notice to the insurer.

2. Each insurer, *agent or administrator,* upon receipt of any inquiry from the division respecting a **[**claim**]** *complaint filed with the division* shall, within 10 working days **[**of**]** *after* receipt of the inquiry, furnish the division with an adequate response to the inquiry. *The division will not consider an acknowledgement of the receipt of an inquiry to be an adequate response to the inquiry.*

3. An appropriate reply must be made within 20 working days **[**on**]** *after receipt of* any other pertinent communication from a claimant if the communication reasonably suggests that a response is expected.

4. Each insurer, upon receiving notification of claim, shall promptly provide necessary claim forms, instructions **[**,**]** and reasonable assistance so that first-party claimants can comply with the policy conditions and the insurer's reasonable requirements. Compliance with this **[**paragraph**]** *subsection* within 20 working days **[**of**]** *after* receipt of notification of a claim constitutes compliance with subsection 1 of this section.

*5. As used in this section, "administrator" has the meaning ascribed to it in NRS 683A.025.*

**Sec. 18.** NAC 686A.675 is hereby amended to read as follows:

686A.675 1. Within 30 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant must be advised of the acceptance or denial of the claim by the insurer. No insurer may deny a claim on the grounds of a specific policy provision, condition **[**,**]** or exclusion unless reference to that provision, condition **[**,**]** or exclusion is included in the denial. The denial must be given to the claimant in writing and filed and retained in the insurer's claim file. *If the claim is accepted, the insurer shall pay the claim within 30 days after it is accepted. If the accepted claim is not paid within that period, the insurer shall pay interest on the claim at the rate of interest established pursuant to NRS 99.040. The interest must be calculated from the date on which the payment is due until the claim is paid.*

2. If a claim is denied for reasons other than those described in subsection 1, and is made by any means other than writing, an appropriate notation must be made in the claim file of the insurer.

3. If the insurer needs more time to determine whether a claim of a first-party claimant should be accepted or denied, it must so notify the claimant within 30 working days after receipt of the proof of loss giving reasons that more time is needed. If the investigation remains incomplete, the insurer shall, **[**45**]** *30* days after the date of the initial notification and every **[**45**]** *30* days thereafter, send to the claimant a letter setting forth the reasons that additional time is needed for investigation.

4. Insurers may not fail to settle first-party claims on the basis that responsibility for payment should be assumed by others except as provided by policy provisions.

5. Insurers may not delay settlement of a claim directly with a claimant who is not an attorney or represented by an attorney by extending negotiations until the claimant's rights may be affected by a statute of limitations or a time limit which is part of an insurance contract or policy, without giving the claimant written notice that the time limit may be expiring and may affect the claimant's rights. Notice must be given 60 days before the date on which a time limit may expire.

6. No insurer may make statements which indicate that the rights of a third-party claimant may be impaired if a form or release is not completed within a given time, unless the statement is given for the purpose of notifying the third-party claimant of the provision of a statute of limitations.

7. Except for a claim involving health insurance, any case involving a claim in which there is a dispute over any portion of the insurance policy coverage, payment for the portion or portions not in dispute must be made notwithstanding the existence of the dispute where payment can be made without prejudice to any interested party.

**Sec. 19.** NAC 686A.350 is hereby repealed.

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**TEXT OF REPEALED SECTION**

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**686A.350 "Commercial or business risks" interpreted.** For the purposes of NRS 686A.230, the commissioner will interpret the term "commercial or business risks" to include:

1. Group life or group annuity products provided pursuant to chapter 688A or 688B of NRS; and

2. Group health products provided pursuant to chapter 689B of NRS.