

**ADOPTED REGULATION OF THE  
COMMISSIONER OF INSURANCE**

**LCB File No. R088-02**

Effective April 24, 2003

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

AUTHORITY: §1, NRS 679B.130 and 686A.015.

**Section 1.** Chapter 686A of NAC is hereby amended by adding thereto a new section to read as follows:

*1. A policy or contract of health insurance issued pursuant to chapter 689A, 689B, 689C, 695B or 695C of NRS which is delivered or issued for delivery in this state and which provides coverage for medically required hospital services must not deny coverage for a dependent child covered by that policy or contract who is referred by a dentist to a hospital, a surgical center for ambulatory patients, an independent center for emergency medical care or a rural clinic, licensed pursuant to chapter 449 of NRS, for general anesthesia and associated care and is being referred because, in the opinion of the dentist, the child:*

- (a) Has a physical, mental or medically compromising condition;*
- (b) Has dental needs for which local anesthesia is ineffective because of an acute infection, an anatomic anomaly or an allergy;*
- (c) Is extremely uncooperative, unmanageable or anxious; or*
- (d) Has sustained extensive orofacial and dental trauma to a degree that would require unconscious sedation.*

*2. An insurer may:*

*(a) Require prior authorization for the provision of general anesthesia and for hospitalization or the use of a surgical center for ambulatory patients for dental procedures in the same manner that the insurer requires prior authorization for hospitalization for the provision of general anesthesia for other diseases or conditions covered by the policy or contract of health insurance;*

*(b) Require that the benefits paid be adjusted according to the policy or contract of health insurance if the services are rendered by a provider who is not designated by or associated with the insurer, if applicable; and*

*(c) Restrict coverage to include only general anesthesia provided during procedures performed by:*

*(1) A qualified specialist in pediatric dentistry;*

*(2) A dentist who is qualified, by virtue of his education, in a recognized dental specialty for which hospital privileges are granted; or*

*(3) A dentist who is certified by a hospital, by virtue of his completion of an accredited program of postgraduate hospital training, and is granted hospital privileges.*

*3. The failure of an insurer to comply with the provisions of this section constitutes an unfair trade practice pursuant to NRS 686A.170.*

*4. A policy or contract of health insurance subject to the provisions of this section that is delivered, issued for delivery or renewed on or after April 24, 2003, has the legal effect of including the coverage required by this section, and any provision of such a policy or contract that conflicts with the provisions of this section is void.*

**NOTICE OF ADOPTION OF PROPOSED REGULATION**  
**LCB File No. R088-02**

The Commissioner of Insurance adopted regulations assigned LCB File No. R088-02 which pertain to chapter 686A of the Nevada Administrative Code on April 7, 2003.

**Notice date:** 5/29/2002  
**Hearing date:** 6/28/2002

**Date of adoption by agency:** 4/7/2003  
**Filing date:** 4/24/2003

**INFORMATIONAL STATEMENT**

A hearing was held on June 28, 2002, 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, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104, regarding the adoption of the regulation relating to dental care and policies of health insurance.

Public comment was solicited by posting notice of the hearing in the following public locations: 788 Fairview Drive, Legislative Counsel Bureau, Capitol Building Lobby, Blasdel Building, Carson City Courthouse, State Library, Clark County Library, Capitol Press Room and the Division's Las Vegas Office.

In addition, the Division maintains a list of interested parties comprised mainly of insurance companies, agencies and other persons regulated by the Division. These persons were 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.

Written and oral testimony was received by the Division. Copies of any comments received by the Division can be obtained from the Division at 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, (775) 687-4270.

Considering the comments by those attending the hearing, the Commissioner has issued an order adopting the regulation as a permanent regulation of the Division.

Based upon the testimony received at the hearing, the regulation was amended from the proposed regulation as follows:

1. Subsection 1 of section 1 is amended to read as follows:

A policy or contract of health insurance issued pursuant to chapter 689A, 689B, 689C, 695B or 695C of NRS which is delivered or issued for delivery in this state and which provides coverage for medically required hospital services must not deny coverage for a dependent child covered by that policy or contract who is referred by a dentist to a hospital, a surgical center for ambulatory patients, an independent center for emergency

medical care or a rural clinic, licensed pursuant to chapter 449 of NRS, for general anesthesia and associated care [if the child] and is being referred because, in the opinion of the dentist, the child:

- (a) Has a physical, mental or medically compromising condition;
- (b) Has dental needs for which local anesthesia is ineffective because of an acute infection, an anatomic anomaly or an allergy;
- (c) Is extremely uncooperative, unmanageable or anxious; or
- (d) Has sustained extensive orofacial and dental trauma to a degree that would require unconscious sedation.

The economic impact of the regulation is as follows:

- (a) Regulated Industry: Moderate increase in dependent claims.
- (b) Public: Minimal increase in dependent premium.

The regulation imposes no direct costs upon members of the public at large. The regulation imposes no direct cost upon the agency to enforce the regulation.

This regulation does not duplicate or overlap any other regulation.

**STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF INSURANCE**

**IN THE MATTER OF THE**

**CAUSE NO. 02.128  
LCB FILE NO. R088-02**

**REGULATION CONCERNING  
DENTAL CARE AND POLICIES  
OF HEALTH INSURANCE.**

---

**SUMMARY OF PROCEEDINGS  
AND ORDER**

A public workshop, as required by NRS 233B.061, on the proposed regulation relating to dental care and policies of health insurance, LCB File No. R088-02, was held before Alice A. Molasky-Arman, Commissioner of Insurance (Commissioner), on June 28, 2002, 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, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104. A public hearing on the proposed regulation was also held before Commissioner Molasky-Arman, on June 28, 2002, immediately following the public workshop. The regulation is proposed under the authority of the Nevada Revised Statutes (NRS) § 1, NRS 679B.130 and NRS 686A.015.

The Division received 74 written comments. Approximately 35 individuals attended the hearing. The following persons provided testimony before the Hearing Officer at the public workshop: Dr. Jade Miller, representing the Nevada Dental Association; Dr. Robert O’Coully, dental officer for the Nevada State Health Division and Director of the Pediatric Dental Residency Program sponsored by the University of Nevada School of Medicine; Dr. Steven Smith, Acting Dean at the School of Dentistry at UNLV and Professor Emeritus, North Western

University; Kathy Karrasch, a pediatric patient's mother; Misti Corbett and Lynn Farr from Dr. Joseph Schwutz' office; Leslie Otto, Consumer; Jack Kim, representing Health Plan of Nevada and Sierra Health and Life; Fred Hillerby, representing Hometown Health Plan; James Wadhams, Esq., representing Blue Cross and Blue Shield and the Nevada Dental Association; Janice Pine, representing Saint Mary's Health Network; and Helen Foley representing Pacificare of Nevada, Inc. At the public hearing, Jack Kim testified and Fred Hillerby testified representing Hometown Health Plan. Louis Roggensack, representing the Division, testified at both the workshop and the hearing. Guy Perkins, Chief Insurance Examiner, representing the Division, also testified and Ned Reed, Deputy Attorney General, representing the Division, testified at the hearing.

Mr. Roggensack testified that any health policy issued, pursuant to chapters 689A, 689B, 689C, 695B and 695C, that provides medical, health and hospital services must not deny coverage for dependent children for general anesthesia or associated care if the child has been referred by a dentist because, in the dentist's opinion, the child has a dental need for which local anesthesia is ineffective, extremely uncooperative, unmanageable or anxious, or has obtained orofacial and dental trauma. Mr. Roggensack also testified that an insurer may require prior authorization, require that benefits be adjusted if a non-network provider is used and restrict coverage to anesthesia only performed by a qualified specialist, a dentist qualified by virtue of his education in a recognized dental specialty, and a dentist who is certified by a hospital by virtue of his completion of an accredited program. He also testified concerning non-compliance and the effective date of the regulation. Mr. Roggensack testified that the Division has received approximately 73 written testimonies in favor of the regulation and one against.

At the workshop, Dr. Jade Miller testified in support of this regulation. Dr. Miller also testified that determining an age limitation for the dependent coverage benefit is difficult, particularly when you are dealing with physically or emotionally handicapped patients with autism, as well as, cerebral palsy and a variety of like conditions. Dr. Miller felt if the regulation were limited to a specific age, that might not allow those children to receive benefits. Although Dr. Miller did not recall a specific age limitation, he indicated that Mr. Wadhams just provided him some information that the age discussed was age 12.

Jack Kim testified that the regulation proposes a mandated benefit. He stated that this regulation is very similar to Senate Bill (SB) 111 that was proposed and defeated in the 2001 legislation.

Mr. Perkins disagreed and responded that this regulation refers to language that already exists in the medical part of policies. Mr. Wadhams testified that the Division staff has correctly identified a very important distinction that a policy, which provides coverage for medically required hospital services, must be fairly interpreted and coverage cannot be denied. Mr. Reed testified in agreement with Mr. Wadhams that this regulation does not extend or modify statute.

Commissioner Molasky-Arman asked if there were provisions that would allow adjustment of payment to providers if the service was completed by a provider outside the insurer's network.

Louis Roggensack responded that paragraph (b) of subsection 2 of section 1 allows for payment adjustment when non-network providers are used. Guy Perkins testified that, if the network does not have a network pediatric anesthesiologist within 25 miles, then the benefits provided must be paid on a usual and customary basis.

Commissioner Molasky-Arman asked if this insurance coverage would apply to all pediatric patients.

Louis Roggensack responded by stating the pediatric patient must be a covered dependent under the health insurance contract.

Based upon the testimony received at the hearing, the Hearing Officer finds this class of dependents has been continuously denied medically necessary services. This regulation is not intended to limit other circumstances where coverage exists for medically necessary services. The regulation is amended from the proposed regulation as follows:

1. Subsection 1 of section 1 is amended to read as follows:

A policy or contract of health insurance issued pursuant to chapter 689A, 689B, 689C, 695B or 695C of NRS which is delivered or issued for delivery in this state and which provides coverage for medically required hospital services must not deny coverage for a dependent child covered by that policy or contract who is referred by a dentist to a hospital, a surgical center for ambulatory patients, an independent center for emergency medical care or a rural clinic, licensed pursuant to chapter 449 of NRS, for general anesthesia and associated care [if the child] and is being referred because, in the opinion of the dentist, the child:

- (a) Has a physical, mental or medically compromising condition;
- (b) Has dental needs for which local anesthesia is ineffective because of an acute infection, an anatomic anomaly or an allergy;
- (c) Is extremely uncooperative, unmanageable or anxious; or
- (d) Has sustained extensive orofacial and dental trauma to a degree that would require unconscious sedation.

**ORDER OF THE COMMISSIONER**

Having reviewed the record in this matter, it is hereby ordered that the proposed regulation concerning dental care and policies of health insurance, LCB File No. R088-02, be adopted, as amended, as a permanent regulation of the Division.

SO ORDERED this \_\_\_\_\_ day of April, 2003.

---

ALICE A. MOLASKY-ARMAN  
Commissioner of Insurance