

PROPOSED REGULATION OF THE COMMISSIONER OF INSURANCE

LCB File No. R026-12

NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATIONS

The State of Nevada, Department of Business and Industry, Division of Insurance (“Division”), (775) 687-0700, is proposing the adoption, amendment or repeal of regulations pertaining to chapters 616B, 679B, 686A and 689A of the Nevada Administrative Code (“NAC”). A workshop has been set for **10:00 a.m., on June 5, 2012**, at the Division’s office located at 1818 East College Parkway, 1st floor hearing room, Carson City, Nevada 89706. Interested parties may also participate through a simultaneous videoconference conducted at the Bradley Building, 2501 East Sahara Avenue, 2nd floor conference room, Las Vegas, Nevada 89104. The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations. Please submit any written comments no later than **May 29, 2012**.

**LCB File No. R026-12. Amend NAC 686A.282, 686A.288 and 686A.302.
Repeal NAC 686A.292, 686A.294, 686A.296, 686A.298, 686A.300 and 689A.431.**
A regulation relating to insurance; prescribing the form which must be used for the submission of certain claims; repealing certain provisions relating to the submission of certain information for an insurance claim; and providing other matters properly relating thereto.

LCB File No. R027-12. Amend NAC 686A.4775, 686A.563 and 686A.573.
A regulation relating to insurance; revising provisions governing an illustration actuary; revising the notice that must be provided with policies of life insurance and annuity contracts that replace existing policies and contracts to conform with statutory requirements; and providing other matters properly relating thereto.

LCB File No. R028-12. Confidentiality of Records During an Examination.
A regulation relating to insurance; removing obsolete references to the Advocate for Insurance Customers; and providing other matters properly relating thereto.

**LCB File No. R031-12.
Financial Reporting of Associations of Self-Insured Employers.**
A regulation relating to industrial insurance; revising requirements concerning financial information that must be submitted to the Commissioner of Insurance by associations of self-insured employers; and providing other matters properly relating thereto.

LCB File No. R032-12. GASB Publication Cost.
A regulation relating to insurance; revising the price for purchasing a copy of a publication with which certain governmental employers that are self-insured for

purposes of workers' compensation must comply; and providing other matters properly relating thereto.

A copy of all materials relating to the proposals may be obtained at the workshop or by contacting the Division, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706, (775) 687-0700. A reasonable fee for copying may be charged.

This Notice of Workshop to Solicit Comments on Proposed Regulations has been sent to all persons on the agency's mailing list for administrative regulations, posted to the agency's Internet Web site at doi.nv.gov, and was provided to or posted at the following locations:

Department of Business and Industry
Division of Insurance
1818 East College Parkway, Suite 103
Carson City, NV 89706

Department of Business and Industry
Division of Insurance
2501 East Sahara Avenue, Suite 302
Las Vegas, NV 89104

Capitol Press Room
Capitol Building Basement
Carson City, NV 89710

Donald W. Reynolds Press Center
102 North Curry Street
Carson City, NV 89701

Legislative Counsel Bureau
401 South Carson Street
Carson City, NV 89701

Office of the Attorney General
100 North Carson Street
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Blasdel Building
209 East Musser Street
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Nevada State Library & Archives
100 North Stewart Street
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Office of the Governor
Capitol Building
Carson City, NV 89710

Carson City Courthouse
885 East Musser Street
Carson City, NV 89701

Carson City Library
900 North Roop Street
Carson City, NV 89701

Churchill County Library
553 South Main Street
Fallon, NV 89406

Clark County District Library
833 Las Vegas Boulevard North
Las Vegas, NV 89101

Douglas County Library
P.O. Box 337
Minden, NV 89423

Elko County Library
720 Court Street
Elko, NV 89801

Esmeralda County Library
P.O. Box 430
Goldfield, NV 89013

Eureka Branch Library
P.O. Box 293

Humboldt County Library
85 East 5th Street

NOTICE OF INTENT TO ACT UPON REGULATION

Notice of Hearing for the Adoption, Amendment or Repeal of Regulations of The Department of Business and Industry, Division of Insurance

The State of Nevada, Department of Business and Industry, Division of Insurance (“Division”), (775) 687-0700, will hold a public hearing at **9:30 a.m. on June 14, 2012**, at the Division’s office located at 1818 East College Parkway, 1st floor hearing room, Carson City, Nevada 89706. Interested persons may also participate through a simultaneous videoconference conducted at the Bradley Building, 2501 East Sahara Avenue, 2nd floor conference room, Las Vegas, Nevada 89104. The purpose of the hearing is to receive comments from all interested persons regarding the amendment and repeal of regulations that pertain to **chapters 686A and 689A** of the Nevada Administrative Code (“NAC”).

The following information is provided pursuant to the requirements of Nevada Revised Statute (“NRS”) 233B.0603 and the directives of the Governor:

**LCB File No. R026-12. Amend NAC 686A.282, 686A.288 and 686A.302.
Repeal NAC 686A.292, 686A.294, 686A.296, 686A.298, 686A.300 and 689A.431.**
A regulation relating to insurance; prescribing the form which must be used for the submission of certain claims; repealing certain provisions relating to the submission of certain information for an insurance claim; and providing other matters properly relating thereto.

(1) Why is the regulation necessary and what is its purpose?

Definitions and information in the amended regulations are necessary to comply with the requirements of the federal Centers for Medicare and Medicaid Services (“CMS”).

The forms prescribed in the repealed regulations are now obsolete and have been replaced by modern versions. Further, the new forms are available online and may be submitted electronically.

NAC 689A.431: Section 2701 of the Affordable Care Act (“ACA”), effective March 23, 2010, prohibits discrimination with regard to participation under a group health plan. As defined in NRS 689A.370, health insurance on franchise plans were those policies providing coverage to certain employees of a corporation, copartnership, individual employer or any governmental corporation, agency or department thereof. The ACA prevents the discriminatory practice of offering coverage to only selected individuals. Since these policies would be considered unfair discrimination, franchise policies can no longer be sold; therefore, the regulation is no longer needed.

(2) What are the terms or substance of the proposed regulation?

The proposed amendment to NAC 686A.282 amends the applicability of the definition of a “clean claim” to the new form prescribed in NAC 686A.288. The proposed amendment to NAC 686A.288 provides updated information regarding the claims form to be used by healthcare providers and sources and costs of those forms. The proposed amendment to NAC 686A.302 clarifies that the

hospital or other institutional provider need only provide the data required for a “clean claim.” The proposed regulation repeals NAC 686A.292, 686A.294, 686A.296, 686A.298 and 686A.300, as they are now obsolete. The paper forms mandated by the regulations have been replaced by electronic data reporting.

The proposed regulation will also repeal NAC 689A.431 as it no longer meets the requirements of the ACA regarding discriminatory practices in the provision of health insurance coverage.

(3) What is the anticipated impact of the regulation on the problem(s)?

The amended regulations provide clarification on the filing of claims by healthcare providers. Since the regulation and the forms or reports contained therein are obsolete, there will be no impact resulting from the repeal of these regulations. Franchise health plans have not been sold since enactment of the ACA in 2010.

(4) Do other regulations address the same problem(s)?

NAC 686A.292, 686A.294 and 686A.296, 686A.298, 686A.300 and 689A.431 all need to be repealed.

(5) Are alternate forms of regulation sufficient to address the problem(s)?

NAC 686A.292, 686A.294 and 686A.296: The HCFA 1500 Claim Form has been replaced by the CMS 1500 Claim Form. The new electronic form was created under the federal Administrative Simplification Compliance Act (“ASCA”). Enacted in 2005, this Act prohibits payment of services or supplies that a provider did not bill to Medicare electronically. New forms are available electronically or from the U. S. Government Printing Office, office supply stores and from local printing companies across the country.

NAC 686A.298 and 686A.300: In 2007, the HCFA 1450 Claim Form was replaced by the CMS UB04 Form.

NAC 689A.431: The ACA, enacted by the Congress of the United States, prescribed the rules regarding discriminatory behavior by carriers and employers. Therefore, franchise plans may be renewed under the “grandfathered” provisions of the ACA, but new plans cannot be sold.

(6) What value does the regulation have to the public?

Since the regulations and the forms contained therein are now obsolete, the regulations no longer provide any value to the public.

NAC 689A.431: There is no longer a value to the public as new franchise plans cannot be issued and those currently in existence will eventually be terminated under the terms of the ACA.

(7) What is the anticipated economic benefit of the regulation?

- a. **Public**
 - 1. **Immediate:** no impact
 - 2. **Long Term:** no impact
- b. **Insurance Business**
 - 1. **Immediate:** no impact
 - 2. **Long Term:** no impact
- c. **Small Businesses**
 - 1. **Immediate:** no impact
 - 2. **Long Term:** no impact
- d. **Small Communities**
 - 1. **Immediate:** no impact
 - 2. **Long Term:** no impact
- e. **Government Entities**
 - 1. **Immediate:** no impact
 - 2. **Long Term:** no impact

(8) What is the anticipated adverse impact, if any?

- a. **Public**
 - 1. **Immediate:** no impact
 - 2. **Long Term:** no impact
- b. **Insurance Business**
 - 1. **Immediate:** no impact
 - 2. **Long Term:** no impact
- c. **Small Businesses**
 - 1. **Immediate:** no impact
 - 2. **Long Term:** no impact
- d. **Small Communities**
 - 1. **Immediate:** no impact
 - 2. **Long Term:** no impact
- e. **Government Entities**
 - 1. **Immediate:** no impact
 - 2. **Long Term:** no impact

(9) What is the anticipated cost of the regulation, both direct and indirect?

- a. **Enactment** – None
- b. **Enforcement** – None
- c. **Compliance** – None

(10) Does the regulation establish a new fee or increase an existing fee?

There are no fees involved in the repeal of these regulations.

(11) Provide a statement which identifies the methods used by the agency in determining the

impact of the proposed regulation on a small business, prepared pursuant to subsection 3 of NRS 233B.0608.

The amended regulations clarify but do not materially change the reporting requirements for clean claims. For the regulations being repealed, those activities and forms prescribed therein are obsolete so there is nothing to measure. The forms are no longer used by medical providers nor will the reports be filed by carriers. Since new franchise health plans have not been available since enactment of the ACA, there is no impact.

(12) Provide a description of any regulations of other state or local governmental 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, state the name of the regulating federal agency.

The forms described in these regulations were prescribed by the CMS or otherwise clarified the use of forms that are now obsolete and no longer needed.

NAC 689A.431: The regulation required the annual report of activity by each carrier with regard to franchise plans; since such plans will no longer be actively sold, the number of such plans will dwindle in accordance with the ACA.

(13) If the regulation is required pursuant to federal law, provide a citation and description of the federal law.

Not applicable.

(14) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, provide a summary of such provisions.

Not applicable.

Persons wishing to comment upon the proposed action of the Division may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Division, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706. **Written submissions must be received by the Division on or before May 29, 2012.** If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions.

A copy of this notice and the proposed regulation will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulation will be available at the offices of the Division, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706, and 2501 East Sahara Avenue, Suite 302, Las Vegas, Nevada 89104, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the **State of Nevada Register of Administrative Regulations**, which is prepared and published

monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us/register>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary. This does not apply to a public body subject to the Open Meeting Law.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at or provided to the following locations:

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Eureka, NV 89316

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445

Lander County Library
P.O. Box 141
Battle Mountain, NV 89820

Lincoln County Library
P.O. Box 330
Pioche, NV 89043-0330

Lyon County Library
20 Nevin Way
Yerington, NV 89447

Mineral County Public Library
P.O. Box 1390
Hawthorne, NV 89415

Pershing County Library
P.O. Box 781
Lovelock, NV 89419

Storey County Public Library
P.O. Box 14
Virginia City, NV 89440

Tonopah Public Library
P.O. Box 449
Tonopah, NV 89049

Washoe County Library
P.O. Box 2151
Reno, NV 89505-2151

White Pine County Library
950 Campton Street
Ely, NV 89301

Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify the Commissioner's secretary in writing at 1818 East College Parkway, Suite 103, Carson City, Nevada 89706, or by calling no later than five (5) working days prior to the hearing, (775) 687-0700.

DATED this 11th day of May, 2012.

/s/
SCOTT J. KIPPER
Commissioner of Insurance