

**ADOPTED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R027-12

Effective September 14, 2012

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

AUTHORITY: §§1 and 2, NRS 679B.130, 686A.015 and 688A.165.

A REGULATION relating to insurance; 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.

Section 1. NAC 686A.563 is hereby amended to read as follows:

686A.563 The notice referred to in NAC 686A.523, 686A.555, and 686A.560 must be in substantially the following form:

**IMPORTANT NOTICE REGARDING THE
REPLACEMENT OF YOUR POLICY OF LIFE INSURANCE**

You have been offered a policy to replace all or part of your existing policy of life insurance.

Before you replace your existing policy, you should consider whether you could suffer a FINANCIAL LOSS under the new policy because of your AGE or the condition of your HEALTH. You should also consider whether you will pay more for premiums because of your age or health.

You WILL incur additional costs to acquire the new policy, including the payment of commissions to the agent advocating the replacement of your existing policy.

To make an informed decision about the replacement of your policy, you should discuss the provisions of your existing policy with your agent or the company which issued it to determine whether your policy can be changed to meet your present needs.

Your new policy provides ~~10~~ 30 days for you to decide whether you wish to keep it.

The agent who is offering to replace your existing policy is required to obtain your signature on this notice. Also, the agent will be notifying your existing insurance company that you are considering the replacement of your policy.

I have read this notice and received a copy of it for my records.

.....

Applicant

.....

Date

.....

Agent

.....

Date

Sec. 2. NAC 686A.573 is hereby amended to read as follows:

686A.573 An insurer or producer of insurance who replaces, offers to replace or proposes to replace an existing individual fixed deferred annuity contract with a new annuity contract shall provide to the prospective buyer:

1. A written, signed and dated statement which compares the terms, conditions and benefits of the existing annuity contract with the new annuity contract. The statement must include, without limitation, any penalties, premium tax implications, bonus vesting schedule and other additional costs.
2. A notice of annuity replacement, which must be in substantially the following form:

IMPORTANT NOTICE REGARDING THE
REPLACEMENT OF YOUR ANNUITY CONTRACT

You have been offered a new annuity contract to replace your existing annuity contract.

Before you replace your existing annuity contract, you should consider the financial gains and losses of replacement.

You may incur additional costs to acquire the new annuity contract.

To make an informed decision about the replacement of your existing annuity contract, you should discuss the provisions of that contract with the producer of insurance or the insurance company which issued it to determine whether your existing annuity contract may be revised to meet your present needs.

Your new annuity contract provides ~~10~~ 30 days for you to decide if you wish to keep it.

NRS 233B.066
INFORMATIONAL STATEMENT
LCB File No. R027-12

A workshop was held on June 5, 2012, and a hearing was held on June 14, 2012, at the offices of the Department of Business and Industry, Division of Insurance (“Division”), 1818 East College Parkway, Carson City, Nevada 89706, with a simultaneous videoconference conducted at the Bradley Building, 2501 East Sahara Avenue, 2nd Floor Conference Room, Las Vegas, Nevada 89104, in regard to adoption of the regulation concerning the annual certification required by a life insurance illustration actuary, and concerning the notice requirements for replacement life insurance policies and annuity contracts.

Public comment was solicited by posting notices of the workshop and hearing at the following public locations: the Division’s Web site, the Division’s Carson City and Las Vegas offices, Carson City Courthouse, Office of the Attorney General, Capitol Building Lobby, Capitol Building Press Room, Blasdel Building, and Legislative Counsel Bureau; and by providing the notices of the workshop and hearing to: the Donald W. Reynolds Press Center, 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.

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 workshop and hearing and that a copy of the regulation could be obtained from or examined at the offices of the Division.

The workshop was attended by two (2) interested individuals in Carson City and one (1) interested individual in Las Vegas. The Division did not receive any written comments from interested parties. Oral testimony was provided by Cliff King, representing the Division. There was one oral comment received via telephone prior to the workshop. One interested party in Las Vegas also provided oral testimony during the workshop.

The hearing had no interested individual attending in Carson City and one (1) interested individual in Las Vegas. During the hearing, oral testimony was provided by Cliff King, representing the Division. There were no public comments, testimony or questions by the industry or interested parties.

After considering the record and the recommendation of the hearing officer, the Commissioner has issued an order adopting the regulation, LCB File No. R027-12, as a permanent regulation of the Division, as recommended by the Hearing Officer. *See* adopted regulation and Order attached.

The economic impact of the regulation is as follows:

- (a) On the business it is to regulate: The proposed regulation should have no economic impact on the industry that the Division of Insurance regulates. The notice requirements will now meet the statutory requirements of AB 74.
- (b) On Small Business: The proposed regulation should have no economic impact on small business.
- (c) On the public: The proposed regulation should have no economic impact on the public.

There should be no cost to the Division to comply with the proposed regulation since these requirements now match those found in AB 74 and NRS 688A.165. The Division is not aware of any overlap or duplication of the regulation with any state, local or federal regulation.

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

IN THE MATTER OF THE

CAUSE NO. **12.0192**
LCB FILE NO. **R027-12**

**REGULATION CONCERNING
ILLUSTRATION ACTUARY
CERTIFICATIONS; LIFE INSURANCE
POLICY AND ANNUITY CONTRACT
NOTICE REQUIREMENTS**

**SUMMARY OF PROCEEDINGS
AND ORDER**

SUMMARY OF PROCEEDINGS

A public workshop, as required by NRS 233B.061, on the proposed regulation concerning the annual certification required by a life insurance illustration actuary, and concerning the notice requirements for replacement life insurance policies and annuity contracts, was held before Amy L. Parks, Hearing Officer, on June 5, 2012, at the office of the Nevada Division of Insurance (“Division”) in Carson City, Nevada, and videoconferenced to the Bradley Building in Las Vegas, Nevada. A public hearing on the proposed regulation was also held before the Hearing Officer, on June 14, 2012, in Carson City, Nevada, and videoconferenced to the Bradley Building in Las Vegas, Nevada. The regulation is proposed under the authority of NRS 679B.130, 686A.015, 679B.130, 686A.015, and 688A.165.

The workshop was attended by two (2) interested individuals in Carson City and one (1) interested individual in Las Vegas. No interested individual attended the hearing in Carson City, and one (1) interested individual attended in Las Vegas.

No written comments were received prior to the workshop, and one (1) written comment was received prior to the hearing.

At the workshop, Cliff King, representing the Division, provided oral testimony before the Hearing Officer, explaining that Section 1 of R027-12 proposed to amend NAC 686A.4775. In paragraph (a) of subsection 1 of Section 1, language was added to clarify that the appropriate

standard of practice for the annual certification of illustrations should be Actuarial Standard of Practice No. 24: Compliance with the NAIC Life Insurance Illustrations Model Regulation. In paragraph (a) of subsection 2 of Section 1, language was proposed to set a firm due date for the annual filing of the certification and the period of time the filing should cover. Proposed subsection 6 of Section 1 was meant to provide clarification of the standard to be used for the filing, as well as information about where the Actuarial Standard could be obtained.

Sections 2 and 3 of R027-12 amended the notice requirements for replacement life insurance policies and annuity contracts to thirty (30) days respectively, making the requirements consistent with AB 74 of the 2011 session of the Legislature and NRS 688A.165.

On May 31, 2012, Cliff King received a phone call comment from an actuary expressing concern about subsection 6 of Section 1 of R027-12. The actuary stated that the proposed language granting the Commissioner the power to approve or disapprove a standard of practice that was already required by the American Academy of Actuaries (“AAA”) for illustration certification would cause problems for the illustration actuary. If the actuary used a standard other than the one the AAA had approved and required, the actuary could be disciplined by the Actuarial Standards Board. She recommended that subsection 6 of Section 1 not be amended as proposed and, instead, leave the regulation as currently codified. Based on her recommendation, Mr. King presented alternative language for subsection 6 of Section 1 that was presented at the workshop.

At the workshop, Mr. John Mangan, representing the American Council of Life Insurers, apologized for not responding prior to the workshop. He agreed with the changes in paragraph (a) of subsection 1 of Section 1, but objected to any changes in paragraph (a) of subsection 2, and any changes to subsection 6, of Section 1.

Mr. Mangan stated that, in regard to paragraph (a) of subsection 2 of Section 1, an insurer’s illustration actuary certifies the illustrations just prior to the annual board meeting or at such other time when changes are made to the illustration. This is a strict process and the

illustration must follow the requirements of the American Actuarial Standards of Practice. Mr. Mangan explained that failure to strictly adhere to these standards could cause disciplinary actions against the actuary by the Actuarial Standards Board. Since the date of certification varies by insurer, it would be difficult for insurers to comply with the March 1 date since this would require them to have multiple annual certifications. Further, the requirement would no longer be consistent with either the NAIC model regulation or match what is required in other states. Mr. Mangan asserted that any deviation from the NAIC model regulation would be problematic for the carriers that he represents. He also urged that subsection 6 of NAC 686A.4775 be left unchanged from what is currently codified.

Mr. Mangan had no comment regarding Sections 2 and 3 of R027-12.

At the hearing, Mr. King again presented the regulation, but made the recommendation to withdraw all proposed amendments in Section 1 of R027-12. He stated that after giving consideration to the public comments, the amendments originally proposed in Section 1 to NAC 686A.4775 no longer seemed necessary or desirable. The withdrawal of the amendments originally proposed in Section 1 will leave NAC 686A.4775 as currently codified. Mr. King did still recommend adoption of the amendments proposed in Section 2 (NAC 686A.563) and Section 3 (NAC 686A.573).

RECOMMENDED ORDER OF THE HEARING OFFICER

Based upon the testimony received at the workshop and hearing, and the public comments received, it is recommended that the proposed regulation concerning the annual certification required by a life insurance illustration actuary, and concerning the notice requirements for replacement life insurance policies and annuity contracts, LCB File No. R027-12, be adopted as a permanent regulation, as amended during the hearing, as follows:

1. All proposed amendments to NAC 686A.4775 are withdrawn and it is to remain as currently codified.

2. The changes reflected in Section 2 and Section 3 of the proposed regulation, R027-12, be adopted as proposed.

See Exhibit A.

SO RECOMMENDED this 3rd day of July, 2012.

/s/
AMY L. PARKS
Hearing Officer

ORDER OF THE COMMISSIONER

Having reviewed the record in this matter and the recommendation of the Hearing Officer, it is hereby ordered that the proposed regulation concerning the annual certification required by a life insurance illustration actuary, and concerning the notice requirements for replacement life insurance policies and annuity contracts, LCB File No. R027-12, be adopted as a permanent regulation of the Division, as recommended by the Hearing Officer. See Exhibit A.

SO ORDERED this 5th day of July, 2012.

/s/
SCOTT J. KIPPER
Commissioner of Insurance