

**REVISED PROPOSED REGULATION OF THE
BOARD OF THE PUBLIC EMPLOYEES' BENEFITS PROGRAM**

LCB File No. R109-12

August 22, 2012

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

AUTHORITY: §§1, 8 and 11, NRS 122A.100 and 287.043; §§2-5, 9 and 10, NRS 287.043; §6, NRS 287.043 and 287.045; §7, NRS 287.0415 and 287.043.

A REGULATION relating to public employees; amending provisions relating to eligibility to participate in the Public Employees' Benefits Program; amending provisions relating to the enrollment and disenrollment of a person in the Program; making various other conforming changes; repealing certain regulations related to the Program; and providing other matters properly relating thereto.

Section 1. NAC 287.035 is hereby amended to read as follows:

287.035 "Dependent" includes, without limitation:

1. One spouse from a marriage pursuant to law or one domestic partner ~~[]~~ *as defined in NRS 122A.030*; and
2. Any child described in NAC 287.312,
↳ who is determined to be eligible for coverage pursuant to NAC 287.313.

Sec. 2. NAC 287.055 is hereby amended to read as follows:

287.055 "Health insurance" means insurance coverage for medical, dental, vision ,
prescription drugs and the treatment of mental health or substance abuse.

Sec. 3. NAC 287.095 is hereby amended to read as follows:

287.095 "Participant" includes the following persons who are eligible to participate in the Program:

1. An officer or employee of a participating public agency;
2. A retired officer or employee ~~[-]~~ *whose last employer is a participating public agency;*
3. *A retired officer or employee whose last employer is not a participating public agency who has been covered continuously by the Program as a retiree since November 30, 2008;*
4. A surviving dependent of a deceased officer or employee of a *participating* public ~~[employer]~~ *agency who was covered by the Program at the time of death of the deceased officer or employee* if the deceased officer or employee had 10 years or more of service credit, as determined by the appropriate certifying agency, and is deemed to be retired pursuant to NRS 286.676;
- ~~[4.]~~ 5. A surviving dependent of a deceased retired officer or employee ~~[-]~~ *described in subsection 2 or 3 if the dependent was covered by the Program at the time of death of the retired officer or employee;*
6. *A surviving spouse of a deceased retired public officer or employee who chooses to reinstate insurance pursuant to NRS 287.0475;*
7. A surviving spouse of a police officer, firefighter or official member of a volunteer fire department who was killed in the line of duty;
- ~~[6.]~~ 8. A surviving child of a police officer, firefighter or official member of a volunteer fire department who was killed in the line of duty;
- ~~[7.]~~ 9. A biennial employee ~~[who plans to return to the same or a similar position in the next authorized biennial employment period if the biennial employee has timely enrolled, reenrolled, opted to continue coverage or insurance, or opted to join the Program pursuant to this chapter and chapter 287 of NRS in any applicable group coverage or insurance offered by, through or in cooperation with the Program;~~

~~—8.— A former member of the board of trustees of a school district pursuant to NRS 287.024;~~
and

~~—9.] ;~~

10. A Legislator whose term of office has not expired ~~[]~~; and

11. *A person who has elected to continue coverage pursuant to the Public Health Service Act, 42 U.S.C. § 300bb-1(a).*

Sec. 4. NAC 287.135 is hereby amended to read as follows:

287.135 “Retired officer or employee” means ~~[]~~:

~~1.—An] an~~ officer or employee of a public employer who:

~~[(a)] 1.~~ Has met the requirements to receive, and is receiving any distribution of, benefits from:

~~[(1)] (a)~~ The Judges’ Retirement System;

~~[(2)] (b)~~ The Public Employees’ Retirement System (PERS);

~~[(3)] (c)~~ The Legislators’ Retirement System; ~~[or~~

~~—(4)] (d)~~ *A retirement program for professional employees offered by or through the Nevada System of Higher Education, including, without limitation, a retirement plan alternative provided pursuant to NRS 286.802, a tax sheltered annuity or a deferred compensation plan; or*

(e) A long-term disability plan of the public employer; and

~~[(b)] 2.~~ Has a total of at least 5 years of *full-time* service credit from all his or her public employers ~~[]~~ *as determined by the appropriate certifying agency*, excluding any service credit purchased pursuant to NRS 1A.310, 218C.370 or 286.300.

~~[2.—An officer or employee of a public employer who:~~

~~—(a) Has met the requirements to receive, and is receiving any distribution of, benefits from a retirement program for professional employees offered by or through the Nevada System of Higher Education, including, without limitation, a retirement plan alternative provided pursuant to NRS 286.802, a tax sheltered annuity or a deferred compensation plan; and~~

~~—(b) Has participated in the retirement program described in paragraph (a) for at least 5 years as a full-time employee or the equivalent of a full-time employee.]~~

Sec. 5. NAC 287.145 is hereby amended to read as follows:

287.145 “Vendor” means a person who provides products or services to the Program or its participants and dependents, including, but not limited to, an insurance broker, a consultant, an insurer, a health maintenance organization, a physical or mental health care provider, a case management or utilization management company, a dental or vision care provider, a hospital, a medical facility, a certified public accountant, an actuary, *an attorney specializing in health care, a health care auditor*, a health educator, a pharmacy or pharmacy benefit manager and a preferred provider organization. The term does not include an opt-out plan.

Sec. 6. NAC 287.150 is hereby amended to read as follows:

287.150 ~~[(1)]~~ As used in NRS 287.045, the Board interprets “full-time employment” to mean the employment, election or appointment by a participating public agency of a person who:

~~[(a)]~~ **1.** In any calendar month, works as a public employee or officer at least 80 hours. The Board will consider such full-time employment to commence at the beginning of the month in which the public employee or officer works 80 hours.

~~[(b)]~~ **2.** Is elected or appointed as a public officer who receives any compensation regardless of the number of hours worked . ~~[, or is a member of the board of trustees of a school district who is not an employee but receives any compensation for public service from a local~~

~~governmental agency.]~~ The Board will consider such full-time employment to commence at the beginning of the month in which the person's term of service or term of office begins.

~~[(c) Is a biennial employee pursuant to NAC 287.500. The Board will consider such full-time employment to commence at the beginning of the month immediately following the date of the person's employment, and at reemployment and reenrollment in the Program at each successive authorized biennial employment period.~~

~~—2.— Regardless of receipt of retirement distributions as set forth in NAC 287.530, the Board may consider any professional staff employed by the Nevada System of Higher Education to teach a course of study or training pursuant to chapter 261, Statutes of Nevada 1999, or any continuation by the Legislature of that teaching program beyond July 1, 2001, to whom the Nevada System of Higher Education will provide a subsidy, as a state employee participant rather than a retired officer or employee pursuant to NRS 287.023, until the voluntary or involuntary termination of the employee from the teaching program.]~~

Sec. 7. NAC 287.178 is hereby amended to read as follows:

287.178 1. The minutes of each meeting of the Board must be distributed to each member of the Board.

2. ~~[(If the Board causes a meeting to be transcribed by a court reporter who is certified pursuant to chapter 656 of NRS, the Board will,)]~~ ***A transcript of a meeting posted to the Internet website of the Board*** pursuant to NRS 287.0415 ~~[-, post a transcript of the meeting on its Internet website not later than 30 days after the meeting. The transcript]~~ will remain posted on the Internet website of the Board for at least 6 months after posting. During the period in which the transcript of the meeting is posted on the Internet website of the Board, a person may request a hard copy of the transcript.

3. The Board may charge the person a fee for the transcript that does not exceed the actual cost of the Board to provide the copy of the transcript.

Sec. 8. NAC 287.311 is hereby amended to read as follows:

287.311 *1.* Except as otherwise provided in NAC ~~[287.3116 and]~~ 287.312, a participant who desires *or is required* to enroll *or disenroll* a person in the Program as a dependent ~~[must execute]~~ *as a result of a life event that qualifies the participant to amend his or her coverage outside the period of open enrollment must, within 60 days after the date on which the dependent becomes eligible to participate or loses his or her eligibility to participate in the Program:*

(a) Execute a declaration of enrollment *electronically through the Internet website of the Board or by submitting* ~~[on]~~ a form prescribed by the Program ~~[.]~~ *pursuant to NAC 287.318,* under penalty of perjury and subject to the provisions of NRS 686A.290 and 686A.291.

(b) Submit copies of any supporting documentation required to establish or terminate the dependent's eligibility to participate in the Program as a dependent as requested by the Program.

2. Except as otherwise provided in subsections 3 and 4, if a participant fails to enroll or disenroll a person in the Program as a dependent within 60 days after the date on which the dependent becomes eligible to participate or loses his or her eligibility to participate in the Program, the participant may not enroll or disenroll the person in the Program as a dependent until the next period of open enrollment.

3. The Program will enroll a person as a dependent of a participant in accordance with an order to obtain health insurance for his or her child pursuant to NRS 31A.350.

4. The Program will disenroll a person as a dependent of a participant on the date on which the dependent becomes deceased.

Sec. 9. NAC 287.317 is hereby amended to read as follows:

287.317 1. A participating public agency shall ~~[-]~~ *notify the Program in a format prescribed by the Program* upon ~~[-]~~ *appointing* :

(a) *Appointing* to the participating public agency a person who will be eligible to participate in the Program pursuant to NRS 287.045, ~~[-]~~ *so the Program may provide* the *required* information about the Program ~~[-]~~ *to the employee pursuant to NAC 287.314 [-]; or*

(b) *The termination of an appointment to the participating public agency,*
~~[-]~~ *[The registration must be provided in a format prescribed by the Program and submitted to the Program not later than 7]*

within 15 days after the employee's first or last day of employment with the participating public agency [-], as applicable.

2. ~~[-]~~ *The* employee shall ~~[-]~~ *enroll in* the Program :

(a) *Electronically through the Internet website of the Board; or*

(b) *By submitting* the completed enrollment forms *to the Program,*

and submitting any supporting documents ~~[-]~~ *to the Program.*

3. If the employee fails to ~~[-]~~ *enroll in the Program pursuant to subsection 2 before the first day of eligibility for coverage of the employee or 30 days after the first day of*

employment of the employee with the participating public agency, whichever occurs last, the employee only will be enrolled in the base plan.

~~{3. If an employee of the professional staff of the Nevada System of Higher Education fails to submit an enrollment form within 30 days after his or her date of hire, as set forth in his or her contract, the employee only will be enrolled in the base plan.}~~

4. As used in this section, “base plan” means the plan designated by the Board as the default plan for the plan year, as described in the plan documents.

Sec. 10. NAC 287.318 is hereby amended to read as follows:

287.318 Enrollment forms that are submitted to the Program must include, without limitation:

1. The name, address, ~~{and}~~ social security number, if any, *and signature* of the person who is enrolling in the Program; and

2. The name ~~{, address}~~ and social security number, if any, of any dependent that the person chooses to cover under the Program.

Sec. 11. NAC 287.006, 287.015, 287.038, 287.045, 287.096, 287.097, 287.098, 287.105, 287.3116, 287.3195 and 287.325 are hereby repealed.

TEXT OF REPEALED SECTIONS

287.006 “Board” defined. (NRS 287.043) “Board” means the Board of the Public Employees’ Benefits Program created by NRS 287.041.

287.015 “Chair” defined. (NRS 287.043) “Chair” means the Chair of the Board.

287.038 “Domestic partner” defined. (NRS 122A.100, 287.043) “Domestic partner” means a person who is in a domestic partnership that is registered pursuant to the Nevada Domestic Partnership Act, which is chapter 122A of NRS, and that has not been terminated pursuant to the Act.

287.045 “Executive Officer” defined. (NRS 287.043) “Executive Officer” means the Executive Officer of the Program employed by the Board pursuant to NRS 287.0424.

287.096 “Participating local governmental agency” defined. (NRS 287.043) “Participating local governmental agency” has the meaning ascribed to it in NRS 287.0405.

287.097 “Participating public agency” defined. (NRS 287.043) “Participating public agency” has the meaning ascribed to it in NRS 287.04052.

287.098 “Participating state agency” defined. (NRS 287.043) “Participating state agency” has the meaning ascribed to it in NRS 287.04054.

287.105 “Program” defined. (NRS 287.043) “Program” means the Public Employees’ Benefits Program established in accordance with NRS 287.0402 to 287.049, inclusive.

287.3116 Dependents: Establishment of eligibility of domestic partner of participant. (NRS 122A.100, 287.043) To establish the eligibility of a domestic partner for coverage as a dependent, a participant must submit to the Program:

1. A copy of the Certificate of Registered Domestic Partnership issued to the participant and his or her domestic partner pursuant to the Nevada Domestic Partnership Act, which is chapter 122A of NRS; and

2. A statement to be acknowledged by the participant that the participant is responsible for any federal income tax consequences resulting from the enrollment of the domestic partner in the Program.

287.3195 Notification of divorce or termination of domestic partnership by participant to Program. (NRS 122A.100, 287.043)

1. If a participant and his or her spouse are granted a divorce, the participant shall, within 60 days after the date on which the decree of divorce is signed, notify the Program of the divorce and submit to the Program a copy of the decree of divorce.

2. If a participant's domestic partnership has been terminated pursuant to the Nevada Domestic Partnership Act, which is chapter 122A of NRS, the participant shall, within 60 days after the termination of the domestic partnership, notify the Program of the termination and submit to the Program such documentation of the termination as is required pursuant to the Nevada Domestic Partnership Act.

287.325 Appointment and certification training of person responsible for preparing and submitting forms to Program. (NRS 287.043)

1. An appointing authority of a participating public agency may appoint an employee of the participating public agency to be responsible for preparing and submitting forms to the Program on behalf of the employees of the participating public agency.

2. The appointing authority or supervisor of an employee appointed pursuant to subsection 1 shall notify the Program, on a form prescribed by the Program, within 15 days after the initial appointment of the employee and the termination of the appointment.

3. An employee who is appointed pursuant to subsection 1 must successfully complete certification training provided by the Program:

(a) Within 60 days after appointment, unless the Executive Officer grants an extension for good cause shown; and

(b) At least once every 12 months thereafter for the duration of the appointment.

4. The appointing authority or supervisor of an employee who is appointed pursuant to subsection 1 shall ensure that the employee complies with the requirements of subsection 2.

5. As used in this section, “appointing authority” means an official, board or commission having the legal authority to make appointments to positions within the participating public agency, or a person to whom the authority has been delegated by the official, board or commission.