

**ADOPTED REGULATION OF THE  
COMMISSIONER OF INSURANCE**

**LCB File No. R039-14**

Effective April 4, 2016

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

AUTHORITY: §§1 and 2, NRS 679B.130.

A REGULATION relating to insurance; revising provisions relating to advertising by certain insurers; repealing provisions relating to certain forms, change of status by an individual carrier, the content of the actuarial certification filed by an individual carrier, disclosure of a variance in premium rates by an individual carrier and the filing of certain annual reports by an insurer; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law authorizes the Commissioner of Insurance to adopt reasonable regulations for the administration of the Nevada Insurance Code and as required to ensure compliance with federal law relating to insurance. (NRS 679B.130)

**Section 1** of this regulation eliminates a requirement that certain insurers file a certificate with the Division of Insurance of the Department of Business and Industry stating that: (1) all advertisements disseminated by the insurer during the preceding year complied with state law and regulation; or (2) no advertisements were disseminated by the insurer during the preceding year. **Section 2** of this regulation repeals provisions that: (1) approve certain forms for use in this State; (2) govern an application by an individual carrier to change its status; (3) require notification of the Commissioner by an individual carrier that wishes to change its status; (4) require the inclusion of certain information in the actuarial certification filed by an individual carrier; (5) require an individual carrier to disclose how much a premium rate may vary based on the health status of the person to be covered; and (6) govern the submission by an insurer of an annual report regarding its system for resolving complaints.

**Section 1.** NAC 689A.270 is hereby amended to read as follows:

689A.270 ~~HH~~ Each accident and health insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of individual policies and typical printed, published or prepared advertisements of blanket,

franchise and group policies disseminated in this or any other state whether or not licensed in the other state, with a notation attached to each advertisement which indicates the manner and extent of distribution and the form number of any policy advertised. The file is subject to inspection by the Division. All advertisements must be retained for at least 3 years.

~~{2.— Except as otherwise provided in subsection 3, each insurer which is required to file an annual statement with the Division or the National Association of Insurance Commissioners and which is subject to the provisions of this section must file with the Division a certificate executed by an authorized officer, certifying that, to his or her knowledge, information and belief, the advertisements which were disseminated by the insurer during the preceding statement year complied with the insurance laws of this State and NAC 689A.010 to 689A.270, inclusive.~~

~~—3.— Each insurer which is required to file an annual statement with the Division or the National Association of Insurance Commissioners and which did not disseminate or provide any advertisement in this State during the previous year must file with the Division a certificate, executed by an authorized officer, certifying that, to his or her knowledge, information and belief, the insurer did not disseminate or provide any advertisement in this State during the previous year.}~~

**Sec. 2.** NAC 689A.350, 689A.445, 689A.455, 689A.465, 689A.485 and 689A.615 are hereby repealed.

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**TEXT OF REPEALED SECTIONS**

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**689A.350 Approved forms. (NRS 679B.130, 689A.105)**

1. The Division hereby approves the Uniform American Medical Association Physicians Form and the form of the American Dental Association.

2. The American Hospital Billing and Claim form is required to be accepted by NRS 689A.105.

3. The following additional forms are hereby adopted and approved for use in this State:

(a) Nevada State Standard Health Insurance Form NSHF (76).

(b) Nevada State Standard Pharmacy Billing Form NSPF (76).

(c) Nevada State Standard Dental Billing Form NSDF (76).

(d) Nevada State Standard Authorization and Invoice for Dental Services - Title XIX NSDF (76).

(e) Nevada State Standard Authorizations and Invoice for Dental Services.

(f) EPSDT Screening Record and Invoice Title XIX EPSDT (76).

**689A.445 Change of status: Application; approval; confidentiality; notice of approval or disapproval. (NRS 679B.130, 689A.670, 689A.740)**

1. An individual carrier that elected to operate as an individual risk-assuming or reinsuring carrier pursuant to NRS 689A.670 may apply to the Commissioner to change its status.

2. The Commissioner will approve an application to change the status of an individual carrier if the individual carrier provides adequate evidence that a change in status is necessary for the individual carrier to meet its contractual and statutory obligations.

3. An individual carrier that applies for a change in its status pursuant to subsection 2 may request that the information on its application be kept confidential if disclosure of the information would adversely affect the financial solvency of the individual carrier or promote unfair competition among other individual carriers. The Commissioner will notify an individual carrier in writing of his or her decision to approve or disapprove a request for confidentiality within 30 days after receipt of the request.

4. The Commissioner will notify an individual carrier in writing of his or her decision to approve or disapprove an application to change the status of an individual carrier pursuant to subsection 2 within 60 days after receipt of the application.

**689A.455 Change of status: Notification of Commissioner. (NRS 679B.130, 689A.670, 689A.740)**

1. If an individual carrier wishes to change its election to operate as an individual risk-assuming or reinsuring carrier pursuant to NRS 689A.670 at the end of the current period of election, it shall notify the Commissioner not later than 30 days before the expiration of the current period of election.

2. If no such notice is provided, the individual carrier shall be deemed to have elected to operate with the same status for the next period of election.

**689A.465 Actuarial certification. (NRS 679B.130, 689A.690, 689A.700, 689A.740)** In addition to the information required to be included in the actuarial certification of an individual carrier pursuant to NRS 689A.690, the actuarial certification must include:

1. The number of blocks of business for individual health benefit plans established by the individual carrier;

2. After adjusting for rating characteristics and the design of benefits, the ratio of the highest written premium per natural person in a block of business for an individual health benefit plan to the lowest written premium per natural person in a block of business for an individual health benefit plan;

3. After adjusting for rating characteristics and the design of benefits, the ratio of the written premium per natural person in the block of business containing the basic and standard health benefit plan to the lowest written premium per natural person in a block of business for an individual health benefit plan; and

4. For each rating characteristic used in establishing premium rates, the ratio of the highest rating factor associated with any classification of that rating characteristic to the lowest rating factor associated with any classification of that rating characteristic.

5. As used in this section, “characteristic” has the meaning ascribed to it in subsection 5 of NRS 689A.680.

**689A.485 Disclosure of variance in premium rate. (NRS 679B.130, 689A.710, 689A.740)** If an individual carrier quotes a premium rate for an individual health benefit plan to a producer or a person who seeks health insurance coverage from the individual carrier, the individual carrier shall disclose how much the premium rate may vary from the quoted premium rate because of the health status of the person to be covered by the health insurance.

**689A.615 Annual report. (NRS 679B.130, 689A.750)**

1. An insurer shall submit its annual report regarding its system for resolving complaints as required pursuant to NRS 689A.750 on or before June 1 of each year. The insurer shall retain a

copy of the annual report for at least 3 years or until the next examination conducted by the Division, whichever is longer.

2. The insurer is not required to include in the annual report information concerning an oral inquiry by an insured relating to a misunderstanding or miscommunication if the misunderstanding or miscommunication was resolved within 1 working day after the inquiry was made. If the misunderstanding or miscommunication was not resolved within 1 working day, the insurer shall report it as a complaint in the annual report.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS  
INFORMATIONAL STATEMENT AS REQUIRED BY NRS 233B.066**

LCB FILE NO. R039-14

The following statement is submitted by the Division of Insurance (“Division”) for adopted amendments to Nevada Administrative Code (“NAC”) Chapter(s) 689A.

1. A clear and concise explanation of the need for the adopted regulation.

Assembly Bill 425 of the 77th (2013) Legislative Session (“AB 425”) made a multitude of changes to Title 57 of the Nevada Revised Statutes (“NRS”) with the intent of bringing state law into conformity with federal laws enacted in the Patient Protection and Affordable Care Act (“ACA”). The changes contained within AB 425 rendered several existing regulations outdated or obsolete. This proposed regulation effectuates the amendment or repeal of these outdated and obsolete regulations, as appropriate.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

(a) A description of how public comment was solicited:

Public comment was solicited by e-mailing the proposed regulation, notice(s) of workshop, notice(s) of intent to act upon the regulation, and small business impact statement to persons on the Division’s mailing list requesting notification of proposed regulations. The documents were also made available on the website of the Division, <http://doi.nv.gov/>, mailed to the main library for each county in Nevada, and posted at the following locations:

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

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

Legislative Building  
401 South Carson Street  
Carson City, Nevada 89701

Grant Sawyer Building  
555 East Washington Avenue  
Las Vegas, Nevada 89101

Blasdel Building  
209 East Musser Street  
Carson City, Nevada 89701

Capitol Building  
101 North Carson Street  
Carson City, Nevada 89701

Nevada Department of Employment,  
Training and Rehabilitation  
2800 E. Saint Louis Avenue  
Las Vegas, Nevada 89104

Public comment was also solicited at the workshop held on February 10, 2016, and at the hearing held on February 17, 2016. The public meetings took place at the offices of the Division, 1818 East College Parkway, Carson City, Nevada 89706, with simultaneous videoconferencing to the Bradley Building, 2501 East Sahara Avenue, Las Vegas, Nevada 89104.

(b) A summary of the public response:

The Division received one written comment and 2 persons testified at the workshop; there was 1 written comment after the workshop and 1 person testified at the hearing regarding R039-14. The written comments supported all parts of the proposed regulation with the exception of the addition of the words “Internet websites” to the definition of “Advertisement” in Section 1 of NAC 689A.020. If that term was eliminated or other suitable language was to be substituted, the regulation would then be acceptable. The writers did not offer alternative language to use in place of “Internet websites.”

At the workshop, two persons testified that the term “Internet websites” was too vague and therefore problematic. Both persons suggested that other language should be found to be more limiting in nature to sales or marketing material or to merely strike the term altogether as the existing language of NAC 689A.020 already includes the requirement for a carrier to maintain all sorts of advertisements for three years and provide the records to the Commissioner at any time.

At the hearing one person testified that the removal of the term “Internet websites” from the definition of “Advertisement” in Section 1 of NAC 689A.020 would make R039-14 acceptable.

(c) An explanation of how other interested persons may obtain a copy of the summary:

The summary in part 2(b) above reflects the comments and testimony that transpired with regard to regulation R039-14. A copy of the summary may be obtained by contacting Cliff King, Chief Insurance Examiner, Life and Health Section, at (775) 687-0736 or [cking@doi.nv.gov](mailto:cking@doi.nv.gov). This summary will also be made available by e-mail request to [insinfo@doi.nv.gov](mailto:insinfo@doi.nv.gov).

3. The number of persons who:
  - (a) Attended the hearing: 1
  - (b) Testified at the hearing: 1
  - (c) Submitted to the agency written statements: 2: 1 before the workshop and 1 before the hearing
  
4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3 (b) and (c), as provided to the agency:



Name	Entity/Organization Represented	Address	Telephone No.	E-Mail Address
Jim Wadhams	Fennemore Craig, Attorneys	300 S. Fourth St., Suite 1400 Las Vegas, NV 89101	702-692-8031	jwadhams@fclaw.com

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses in the same manner as they were solicited from the public. Please see the description, summary and explanation provided above in response to question #2.

6. If, after consideration of public comment, the regulation was adopted without changing any part of the proposed regulation, provide a summary of the reasons for adopting the regulation without change.

The original draft of the regulation was amended as a result of the comments and testimony received from the workshop and hearing.

7. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:

(a) Both adverse and beneficial effects;

Insurers are relieved from filing reports no longer considered necessary. Also, since many of the regulations that were repealed are obsolete, nobody is affected.

(b) Both immediate and long-term effects.

The immediate and long-term effects are positive to the insurers since they are no longer required to file unnecessary reports; there is no impact on the public.

8. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost for the Division.

9. A description of any regulations of other state or government 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, the name of the regulating federal agency.

There are no other state or government agency regulations that R039-14 duplicates.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of those provisions.

There are no federal regulations that apply.

11. If the regulation establishes a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

There are no fees assessed as a result of R039-14.