

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R049-14

**SECOND AMENDED NOTICE OF INTENT
TO ACT UPON REGULATION
AND HEARING AGENDA
RE: R049-14 NETWORK ADEQUACY**

Notice of Recessed Hearing

and

Date the Hearing will Reconvene

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, hereby provides notice that **the hearing concerning Network Adequacy, R049-14, which was recessed on March 16, 2016, will reconvene at 9:30 a.m. on March 22, 2016**, at the office of the Division, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706, in the 1st floor hearing room. Interested persons may also participate through a simultaneous videoconference conducted at the Division’s southern office, located at 2501 East Sahara Avenue, Suite 302, Las Vegas, Nevada 89104, in the 3rd floor conference room.

Attached hereto is a copy of R049-14, as amended, based on testimony and written comments received during the portion of the hearing held on March 16, 2016.

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. R049-14. Network Adequacy.

A regulation relating to insurance; establishing certain requirements relating to the adequacy of a network plan issued by a carrier; authorizing the Commissioner of Insurance to determine whether a network plan is adequate under certain circumstances; requiring a carrier whose network plan is deemed or determined to be adequate to notify the Commissioner of any significant change to its network and take certain actions to correct any deficiency that results; providing for the availability of a network plan to persons outside of the approved service area in certain circumstances; creating a Network Adequacy Advisory Council; and providing other matters properly relating thereto.

(1) Why is the regulation necessary and what is its purpose? *The proposed regulation outlines the requirements for network plans to apply for and be approved by the Commissioner of Insurance (“Commissioner”). Existing federal^{1,2} and state³ law require health benefit plans utilizing a*

¹ 42 U.S.C. § 18031(c)(1)(B)

² 45 C.F.R. § 155.230

³ NRS 687B.490

network plan to prove the adequacy of the number, type, and location of the providers and facilities included within the network.

(2) What are the terms or substance of the proposed regulation? *The proposed regulation outlines a procedure for a carrier wishing to apply for a network plan to have the application deemed adequate. It also provides for the ability of the Commissioner to declare a network plan adequate in certain instances when the application fails to meet the safe harbor provisions. The proposed regulation also outlines the requirements for network plans to remain in compliance and the potential remedies and penalties for failing to remain compliant.*

(3) What is the anticipated impact of the regulation on the problem(s)? *The proposed regulation is anticipated to mitigate some of the issues consumers, providers, facilities and insurers may experience in ensuring adequate access to medical care. Due to disparities in geography and medical care availability, the regulation is not anticipated to solve all issues consumers experience while trying to access medical care.*

(4) Do other regulations address the same problem(s)? *NAC 695C.1255 establishes similar requirements for Health Maintenance Organizations.*

(5) Are alternate forms of regulation sufficient to address the problem(s)? *No.*

(6) What value does the regulation have to the public? *The proposed regulation should help ensure that members of the public who purchase health benefit plans utilizing network plans have adequate access to medical care or other remedies available.*

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

a. Public

1. Immediate: *None anticipated*
2. Long Term: *None anticipated*

b. Insurance Business

1. Immediate: *None anticipated*
2. Long Term: *None anticipated*

c. Small Businesses

1. Immediate: *None anticipated*
2. Long Term: *None anticipated*

d. Small Communities

1. Immediate: *None anticipated*
2. Long Term: *None anticipated*

e. Government Entities

1. Immediate: *None anticipated*
2. Long Term: *None anticipated*

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

- a. Public
 - 1. Immediate: *None anticipated*
 - 2. Long Term: *None anticipated*
- b. Insurance Business
 - 1. Immediate: *None anticipated*
 - 2. Long Term: *None anticipated*
- c. Small Businesses
 - 1. Immediate: *None anticipated*
 - 2. Long Term: *None anticipated*
- d. Small Communities
 - 1. Immediate: *None anticipated*
 - 2. Long Term: *None anticipated*
- e. Government Entities
 - 1. Immediate: *None anticipated*
 - 2. Long Term: *None anticipated*

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

- a. Enactment: *No cost anticipated.*
- b. Enforcement: *No direct cost to the state anticipated. Statute permits the Division to pass the cost of enforcement to the insurers applying for the approval of a network plan.*
- c. Compliance: *No direct cost to the state anticipated. Statute permits the Division to pass the cost of compliance in the form of a market conduct examination to the insurer under examination.*

(10) Does the regulation establish a new fee or increase an existing fee? *No.*

(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. *Attached.*

(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. *None known.*

(13) If the regulation is required pursuant to federal law, provide a citation and description of the federal law. *See paragraph (1).*

(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 comments should be submitted to the Division on or before March 18, 2016.** 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 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 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://leg.state.nv.us/register/>. Copies of this notice and the proposed regulation will 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.

Notice of the hearing was provided via electronic means to all persons on the agency's e-mail list for administrative regulations, and this Notice of Intent to Act Upon Regulation was posted to the agency's Internet Web site at <http://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, 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 Main Floor
101 North Carson Street
Carson City, Nevada 89701

Nevada Department of Employment,
Training and Rehabilitation
2800 E. Saint Louis Ave.

Nevada State Library & Archives
100 North Stewart Street
Carson City, Nevada 89701

Las Vegas, NV 89104

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

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

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

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

Las Vegas-Clark County Library District
7060 W. Windmill Lane
Las Vegas, NV 89113

Lyon County Library
20 Nevin Way
Yerington, Nevada 89447

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

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

White Pine County Library
950 Campton Street
Ely, Nevada 89301

Churchill County Library
553 South Main Street
Fallon, Nevada 89406

Elko County Library
720 Court Street
Elko, Nevada 89801

Eureka Branch Library
P.O. Box 293
Eureka, Nevada 89316

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

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

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

Storey County Clerk
P.O. Drawer D
Virginia City, Nevada 89440

Washoe County/Downtown Reno Library
P.O. Box 2151
Reno, Nevada 89505-2151

Members of the public who would like additional information about the proposed regulation may contact Glenn Shippey, Actuarial Analyst, at (775) 687-0738, or via e-mail to gshippey@doi.nv.gov.

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 E. College Pkwy., Ste. 103, Carson City, NV 89706, or by calling (775) 687-0700, a day prior to the hearing.

DATED this _____ day of March, 2016.

BARBARA D. RICHARDSON
Commissioner of Insurance

HEARING AGENDA

The State of Nevada, Department of Business and Industry, Division of Insurance

March 22, 2016 - 9:30 a.m.

Location of Hearing:

Offices of the Division of Insurance
1818 E. College Pkwy., 1st Floor Hearing Room
Carson City, NV 89706
(Division Offices located in Suite 103)

Available via Videoconference at:

Offices of the Division of Insurance
2501 E. Sahara Ave., 3rd Floor Conference Room
Las Vegas, NV 89104
(Division Offices located in Suite 302)

- 1. Call to Order.**
- 2. Presentation, Discussion and Adoption of Proposed Regulation. (For Possible Action)
LCB File No. R049-14, Network Adequacy**
A regulation relating to insurance; establishing certain requirements relating to the adequacy of a network plan issued by a carrier; authorizing the Commissioner of Insurance to determine whether a network plan is adequate under certain circumstances; requiring a carrier whose network plan is deemed or determined to be adequate to notify the Commissioner of any significant change to its network and take certain actions to correct any deficiency that results; providing for the availability of a network plan to persons outside of the approved service area in certain circumstances; creating a Network Adequacy Advisory Council; and providing other matters properly relating thereto.
- 3. Public Comment.**
- 4. Adjournment.**

Supporting public material for this meeting may be requested from Sue Dummar, Legal Secretary, Nevada Division of Insurance, 1818 E. College Parkway, Carson City, Nevada 89706, by e-mail to sdummar@doi.nv.gov, or by calling (775) 687-0704. In your request, please state that you are requesting meeting materials for LCB File No. **R049-14, Network Adequacy**, and provide the date of the meeting.

Note: Any agenda item may be taken out-of-order; items may be combined for consideration by the public body; and items may be pulled or removed from the agenda at any time. The Hearing Officer, within his/her discretion, may allow for public comment on individual agenda items. Public Comment may be limited to three minutes per speaker.

Members of the public are encouraged to submit written comments for the record.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify Sue Dummar, at (775) 687-0704, a day prior to the meeting.

NOTICES FOR THIS MEETING HAVE BEEN POSTED IN ACCORDANCE WITH NRS 241 AT THE FOLLOWING LOCATIONS:

Nevada Division of Insurance, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706

Nevada Division of Insurance, 2501 E. Sahara Avenue, Suite 302, Las Vegas, Nevada 89104

Nevada State Legislative Building, 401 S. Carson Street, Carson City, Nevada 89701

Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas, Nevada 89101

Blasdel State Office Building, 209 E. Musser Street, Carson City, Nevada 89701

Nevada State Capitol, 101 N. Carson Street, Carson City, Nevada 89701

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

The State of Nevada Website (www.nv.gov)

The Nevada State Legislature Website (www.leg.state.nv.us)

The Nevada Division of Insurance Website (www.doi.nv.gov)