

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

LCB File No. R054-17

August 23, 2017

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

AUTHORITY: §1, NRS 287.0424, 287.043 and 287.0465.

A REGULATION relating to public employees; providing, under certain circumstances, for the Executive Officer employed by the Board of the Public Employees' Benefits Program to be subrogated to the rights of certain public officers or employees against certain persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that if a member incurs medical costs that are payable under the plan of self-insurance established by the Board of the Public Employees' Benefits Program, but for which a person, other than the member, has the legal liability to pay, the Board is subrogated to the rights of the member and may commence, join or intervene in any legal action against the person to enforce that legal liability. The term "member" is defined for the purposes of this provision to mean an active or retired officer or employee of the State or a local governmental agency or a dependent of such an officer or employee who is covered under the Public Employees' Benefits Program. (NRS 287.0465) Existing law authorizes the Board to delegate to the Executive Officer employed by the Board the exercise or discharge of any power, duty or function vested in or imposed upon the Board. (NRS 287.0424)

This regulation: (1) provides that the rights of a member to which the Board is authorized to be subrogated pursuant to existing law include the liability of an insurance carrier to the member as its insured; (2) delegates to the Executive Officer the powers of the Board to be subrogated to the rights of a member against certain persons; (3) requires, under certain circumstances, the Executive Officer to make an adjustment to the annual out-of-pocket maximum to be paid by the member; and (4) authorizes, under certain circumstances, the Executive Officer to collect less than the total cost of the medical services to which the Board is entitled to be subrogated pursuant to existing law.

Section 1. Chapter 287 of NAC is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 4, the Board, pursuant to NRS 287.0465, is entitled to be subrogated to the rights of a member with regard to any and all tort, contractual or other legal liability on the part of a person other than the member, including, without limitation, the legal liability of an insurance carrier to the member as its insured, for the cost of medical services of the member that are payable under the plan of self-insurance established by the Board.

2. The Board delegates to the Executive Officer its powers to subrogate to the rights of a member as described in subsection 1, subject to provisions of such plan documents for the plan of self-insurance as may be approved by the Board.

3. Before collecting a payment from an insurance carrier of a member under first-party coverage, the Executive Officer shall make a one-time adjustment in the amount of that payment to the remaining annual out-of-pocket maximum to be paid by the member.

4. The Executive Officer may collect less than the total cost of the medical services to which the Board is entitled to be subrogated pursuant to NRS 287.0465 if the Executive Officer negotiated the amount to be collected in good faith with the member, the legal counsel of the member or the insurance carrier of the first-party coverage.

5. As used in this section, “member” has the meaning ascribed to it in NRS 287.0465.