

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

LCB FILE NO. R001-18

The following statement is submitted by the State of Nevada, Department of Business and Industry, Division of Insurance (“Division”) for adopted amendments to Nevada Administrative Code (“NAC”) Chapter 686A.

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

The 2017 Legislature passed SB 209, which was signed into law by the Governor on June 12, 2017. That bill amended NRS 686A.230 by allowing the Commissioner to adopt regulations for the charging and collecting of fees for consultation and advice on individual life, health and annuity policies. In 2016, the large majority of carriers operating in Nevada either eliminated paying commissions or dramatically reduced the amount of compensation being paid to producers for individual health benefit plans. Producers do play an important role in providing guidance and advice to consumers, and the dramatic change in compensation impacted the number of producers willing to participate in the Nevada individual health market. The ability to charge a fee for consultation or related advice on individual health benefit plans is intended to keep producers in the market, by allowing them to charge an optional fee for their consultation and other services provided to willing consumers.

2. A description of how public comment was solicited, a summary of the 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 of workshop, notice 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:

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

Nevada Division of Insurance
3300 West Sahara Avenue, Suite 275
Las Vegas, Nevada 89102

Legislative Building
401 South Carson Street
Carson City, Nevada 89701

Nevada State Business Center
3300 West Sahara Avenue
Las Vegas, Nevada 89102

Blasdel Building
209 East Musser Street
Carson City, Nevada 89701

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

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 August 2, 2018, and at the hearing held on August 15, 2018. The public workshop and hearing took place at the offices of the Division, 1818 East College Parkway, Carson City, Nevada 89706, with simultaneous videoconferencing to the Nevada State Business Center, 3300 West Sahara Avenue, Las Vegas, Nevada 89102.

(b) A summary of the public response:

The Division received three responses to this proposed regulation, as follows: Heather Korbolic, the Executive Director of the Silver State Health Insurance Exchange; Jim Wadhams, Director of Fennemore Craig Attorneys; and, Grace Daidone, President of the Nevada State Association of Health Underwriters.

Ms. Korbolic recommended strengthening sections 1 and 3 of this regulation “by adding definitive language describing the time and methods of disclosure, including a requirement that the agreement for consultation be made available in the consumer’s primary language.” Ms. Korbolic also requested that language be added “in the agreement for consultation that explicitly notifies the consumer that they have the option to alternatively receive free consultation through the Nevada Health Link.” Ms. Korbolic’s last recommendation was to add “language requiring that producers charge a reasonable and uniform fee for these services.”

Mr. Wadhams stated that there appeared to be some “ambiguity about the new language’s application to group life and annuities,” and proposed clarifying language.

Ms. Daidone suggested including a time frame “for how long the disclosure is required to be kept by the producer.” Ms. Daidone also pointed out that this regulation does not require producers to charge a fee; and, that the disclosure form would not be required if a fee isn’t charged.

(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 with regard to regulation R001-18. A copy of the summary may be obtained by contacting Jack Childress, Insurance Actuarial Analyst II, at (775) 687-0731 or jchildress@doi.nv.gov. This summary will also be made

available by e-mail request to insinfo@doi.nv.gov.

3. The number of persons who:

- (a) Attended the hearing: 6, not including staff.
- (b) Testified at the hearing: 3, not including staff.
- (c) Submitted to the agency written statements: 3 were submitted prior to the workshop and are detailed in part 2(b) above.

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:

Testified at the hearing:

Name	Entity/Organization Represented	Business Address	Telephone No./ Business Telephone No.	E-Mail Address
Heidi Sterner	Nevada Association of Health Underwriters	7887 W. Charleston Blvd. Ste. 140 Las Vegas, NV 89117	702-328-9763	heidijsterner@gmail.com
Robert Bishop	Bishop Insurance Agency	424 Lost Trail Dr. Henderson, NV 89014	702-595-2824	Robertjbishop1@gmail.com
Gene Furr	Menath Insurance	333 Village Blvd. Ste. 203 Incline Village, NV 89451	775-831-3132	gfurr@menath.com

Submitted to the agency written statements:

Name	Entity/Organization Represented	Business Address	Telephone No./ Business Telephone No.	E-Mail Address
Heather Korbolic	Silver State Health Insurance Exchange	2310 S. Carson Street Ste. 2 Carson City, NV 89701	775-687-9939	hkorbulic@exchange.nv.gov
Jim Wadhams	Fennemore Craig Attorneys	300 S. Fourth Street Ste. 1400 Las Vegas, NV 89101	702-692-8039	jwadhams@fclaw.com
Grace Daidone	Nevada State Association of Health Underwriters	3301 S. Virginia Street Reno, NV 89502	775-843-3329	nevadanative@yahoo.com

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

(a) A description of how comments were solicited from affected businesses:

Comments were solicited from affected businesses in the same manner as they were solicited from the public. Please see the description provided above in response to 2(a).

(b) A summary of the responses from affected businesses:

A summary of the responses from affected businesses is the same as the summary of the public response. Please refer to the response in 2(b).

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

The summary in parts 5(b) and 2(b) above reflects the comments with regard to regulation R001-18. A copy of said summary may be obtained by contacting Jack Childress, Insurance Actuarial Analyst II, at (775) 687-0731 or jchildress@doi.nv.gov. This summary will also be made available by e-mail request to insinfo@doi.nv.gov.

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

Ms. Korbolic recommended strengthening sections 1 and 3 of this regulation “by adding definitive language describing the time and methods of disclosure, including a requirement that the agreement for consultation be made available in the consumer’s primary language.” The Division agrees to part of this recommendation, by adding the clarifying language to paragraphs (h) and (i) of subsection 1, of section 1, discussed above. However, the Division feels that “the agreement for consultation be made available in the consumer’s primary language” would be burdensome, and impractical, to financial planners, producers or consultants and would add to the client’s cost.

Ms. Korbolic also requested that language be added “in the agreement for consultation that explicitly notifies the consumer that they have the option to alternatively receive free consultation through the Nevada Health Link.” The consultation agreement requirements addressed by this proposed regulation are not limited to products sold through the Silver State Health Insurance Exchange. This proposed regulation also applies to consultation related to individual health benefit plans sold off of the Exchange, in addition to group life, health and annuity policies. The Division has included several disclosure requirements related to the Silver State Health Insurance Exchange in this proposed regulation and does not recommend adding this additional disclosure requirement.

Ms. Korbolic’s last recommendation was to add “language requiring that producers charge a reasonable and uniform fee for these services.” The Division feels that “reasonable and uniform” is subjective, and the services provided by the financial planner, producer or consultant will differ. While a uniform fee would not be practical, the proposed regulation includes numerous disclosure requirements to help the consumer make a more informed

decision as to the services being offered and the reasonableness of the fee for such services.

Mr. Wadhams stated that there appeared to be some “ambiguity about the new language’s application to group life and annuities,” and proposed clarifying language. The Division found this change unnecessary, as section 1 only applies to individual health benefit plans as can be seen by the addition of paragraph (c), of subsection 3, of section 3.

Ms. Daidone suggested including a time frame “for how long the disclosure is required to be kept by the producer.” However, this change was unnecessary as this is already stated in NRS 683A.351, which states that records may be destroyed three years after the expiration of the policy.

Ms. Daidone also pointed out that this regulation does not require producers to charge a fee; and, that the disclosure form would not be required if a fee isn’t charged. The Division agrees with this assessment.

7. (a) The estimated economic effect of the adopted regulation on the business which it is to regulate:

(1) Both adverse and beneficial effects:

1. Adverse: None.
2. Beneficial: This regulation will increase the amount of potential income for producers working in the individual health insurance market in this state.

(2) Both immediate and long-term effects:

1. Immediate: This regulation will increase the amount of potential income for producers working in the individual health insurance market in this state.
2. Long Term: This regulation will increase the amount of potential income for producers working in the individual health insurance market in this state.

(b) The estimated economic effect of the adopted regulation on the public:

(1) Both adverse and beneficial effects:

1. Adverse: Consumers who choose to enter into an agreement with a producer for consultation or advice on individual health benefit plans will be paying for services that, historically, were included in the premiums they paid.
2. Beneficial: This regulation should increase the opportunity for consumers to be advised on the purchase of their family’s health insurance policy. This should help consumers select proper deductibles, co-insurance, premiums, and formularies to help protect their family’s assets.

(2) Both immediate and long-term effects:

1. Immediate: This regulation should increase the opportunity for consumers to be advised on the purchase of their family's health insurance policy. This should help consumers select proper deductibles, co-insurance, premiums, and formularies to help protect their family's assets.

2. Long Term: This regulation should increase the opportunity for consumers to be advised on the purchase of their family's health insurance policy. This should help consumers select proper deductibles, co-insurance, premiums, and formularies to help protect their family's assets.

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

None.

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.

Not applicable, as there is no overlap or duplication. The 2017 Legislature passed SB 209, which was signed into law by the Governor on June 12, 2017. That bill amended NRS 686A.230, by allowing the Commissioner to adopt regulations for the charging and collecting of fees for consultation and advice on individual life, health and annuity policies.

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

Not applicable, as there are no federal regulations addressing these provisions.

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.

Not applicable, as this regulation does not establish a new fee or increase an existing fee payable to the Division. However, any fees as a result of this regulation will be up to individual financial planners, producers of insurance or insurance consultants.