

**NOTICE OF INTENT TO ACT UPON TEMPORARY¹ REGULATION
AND
HEARING AGENDA**

Notice of Hearing 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, will hold a public hearing at **9:30 a.m. on December 14, 2018**, in the 1st Floor Hearing Room at the Division’s offices located at 1818 East College Parkway, Suite 103, Carson City, Nevada 89706. Interested persons may also participate through a simultaneous videoconference conducted in the 4th floor Nevada Room, at the Division’s offices located in the Nevada State Business Center, 3300 W. Sahara Avenue, Suite 275, Las Vegas, Nevada 89102. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment or repeal of the regulation(s) that pertain(s) to chapter(s) 687B of the Nevada Administrative Code (“NAC”).

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. T005-18. Network Adequacy Plan Year 2020 (Temporary).

A regulation relating to insurance; requiring a network plan to satisfy certain requirements before the Commissioner of Insurance can determine that such a network plan is adequate for sale in this state; and providing other matters properly relating thereto.

- (1) Why is the regulation necessary and what is its purpose?

The regulation is necessary to comply with the requirement that the Commissioner issue the network adequacy standards required of all network plans. See Nevada Revised Statutes (“NRS”) 687B.490 and Nevada Administrative Code (“NAC”) 687B.750 to 687B.784. The purpose of the regulation is to establish adequacy standards for network plans for plan year 2020.

- (2) What are the terms or substance of the proposed regulation?

The regulation was proposed under the authority of NRS 687B.490. The regulation amends NAC 687B providing standards for measuring the adequacy of a network plan to ensure consumers of health plans can reasonably access certain providers.

¹ NRS 233B.063(3) An agency may adopt a temporary regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year without following the procedure required by this section and NRS 233B.064, but any such regulation expires by limitation on November 1 of the odd-numbered year. A substantively identical permanent regulation may be subsequently adopted.

The Adequacy of Network Plans section of NAC Chapter 687B includes provisions providing the Commissioner of Insurance the authority to establish a Network Adequacy Advisory Council (“Council”) for the purpose of providing annual recommendations pertaining to the standards used to measure the adequacy of a network plan.

The Council conducted the first meeting for plan year 2020 on February 27, 2018. The nine-member Council held a total of five public meetings during which they conducted discussions, reviewed data, and received public input related to network adequacy. Recordings of the meetings and supporting documents presented during the meetings are available on the Division’s website at www.doi.nv.gov. On September 14, 2018, a Report which included the Council’s network adequacy recommendations was submitted to the Commissioner of Insurance. Based on the Commissioner’s review of the Report, the Commissioner seeks to promulgate this regulation to enact network adequacy standards.

- (3) What is the anticipated impact of the regulation on the problem(s)?

Once these additional standards for network adequacy are implemented, policyholders should be able to more reasonably access appropriate in-network care for those providers added to the standard. As the network adequacy requirements are updated each year, they should provide a more broad base of “in network” healthcare providers and access thereto. By providing a more broad base of “in network” healthcare providers and access thereto, policyholders should experience lower out-of-pocket costs.

- (4) Do other regulations address the same problem(s)?

The Adequacy of Networks section under Nevada Administrative Code (“NAC”) 687B.750 to 687B.784 includes provisions related to the network adequacy standards required for health network plans in the individual and small employer group market. The proposed regulation modifies these standards to incorporate additional providers within these standards.

- (5) Are alternate forms of regulation sufficient to address the problem(s)?

No, there are no alternate forms of regulation sufficient to address the problem, and the network adequacy standards under NAC 687B.768 do not currently address the provider types and standards proposed under this regulation.

- (6) What value does the regulation have to the public?

The regulation provides standards for measuring the adequacy of a network plan to ensure consumers of health plans can reasonably access certain providers.

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

a. Public

1. Immediate: *Once these additional standards for network adequacy are implemented, policyholders should be able to more reasonably access appropriate in-network care for those providers added to the standard.*
 2. Long Term: *As the network adequacy requirements are updated each year, they will generally provide a more broad base of “in network” healthcare providers and access thereto. By providing a more broad base of “in network” healthcare providers and access thereto, policyholders should experience lower out-of-pocket costs.*
- b. Insurance Business
1. Immediate: *None*
 2. Long Term: *Carriers will be able to better measure members’ needs and use of providers to better plan.*
- c. Small Businesses
1. Immediate: *None*
 2. Long Term: *Providers that qualify as small businesses may have more opportunities, options, or negotiating power.*
- d. Small Communities
1. Immediate: *None*
 2. Long Term: *If consumers are better able to access services through their insurance, there may be less reliance on other health care options that are more expensive or that clog up the resources in small communities.*
- e. Government Entities
1. Immediate: *None*
 2. Long Term: *None*

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

- a. Public
1. Immediate: *As carriers obtain experience data, there may be a learning curve that may impact members’ abilities to access care as quickly as hoped.*
 2. Long Term: *Although network adequacy requirements will be issued each year, this does not guarantee that every healthcare provider sought by a policyholder will always be an “in-network” provider. As a result, the policyholder may still be responsible for paying some additional amounts out-of-pocket for an “out-of-network” provider.*
- b. Insurance Business
1. Immediate: *The health insurance carriers will be required to demonstrate the adequacy of their network plans based on the network adequacy standards in the regulation. Carriers will likely have to adjust their network plans to meet member needs. Carriers may have to add additional*

healthcare providers to their current network plan designs.

2. Long Term: *Once carriers establish the relevant number and types of healthcare providers necessary to meet the additional network adequacy requirements, the impact on carriers will be better known. Data will be gathered by the Division through its annual review of performance of a carrier's network plan. This data can then be studied to better predict long-term effects of certain network adequacy requirements.*

c. Small Businesses

1. Immediate: *No adverse impact is anticipated by this regulation.*
2. Long Term: *No adverse impact is anticipated by this regulation.*

d. Small Communities

1. Immediate: *No adverse impact is anticipated by this regulation.*
2. Long Term: *No adverse impact is anticipated by this regulation.*

e. Government Entities

1. Immediate: *No adverse impact is anticipated by this regulation.*
2. Long Term: *No adverse impact is anticipated by this regulation.*

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

The Division anticipates no additional costs, either directly or indirectly. NRS 687B.490(6) requires that any expense borne by the Division in determining the adequacy of a network plan be assessed against the insurance carrier applying for the network plan approval.

- a. Enactment: *The Division already has in place procedures for certifying the network adequacy of a network plan and does not anticipate a direct or indirect cost to promulgate the regulation. NRS 687B.490(6) requires that any expense borne by the Division in determining the adequacy of a network plan be assessed against the insurance carrier applying for the network plan approval.*
- b. Enforcement: *The Division anticipates no additional direct or indirect costs. NRS 687B.490(6) requires that any expense borne by the Division in determining the adequacy of a network plan be assessed against the insurance carrier applying for the network plan approval.*
- c. Compliance: *The Division anticipates no additional direct or indirect costs. NRS 687B.490(6) requires that any expense borne by the Division in determining the adequacy of a network plan be assessed against the insurance carrier applying for the network plan approval.*

- (10) Does the regulation establish a new fee or increase an existing fee?

The regulation does not establish a new fee or increase an existing fee.

(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.

The Division solicited comments from the Chambers of Commerce throughout the state of Nevada via a survey and requested that it be forwarded to members of the Chambers.

Further, during the two-year process of promulgating the network adequacy regulation, which involved numerous parties, comments, and meetings, the Division received no comments which suggested that quantifying network adequacy standards in a regulation would impact small businesses.

Additionally, the Network Adequacy Advisory Council's meetings are public and include extensive discussion about network adequacy, and at no time during the 15 public meetings conducted for plan years 2018, 2019, and 2020 were any comments received that the proposed network adequacy standards would negatively impact small businesses.

The Division has also conducted extensive analysis and research of network adequacy standards to determine its reach.

(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.

The Adequacy of Networks section under Nevada Administrative Code ("NAC") 687B.750 to 687B.784 includes provisions related to the network adequacy standards required for health network plans in the individual and small employer group market. The proposed regulation modifies NAC 687B.768 and 687B.772. The network adequacy standards under NAC 687B.768 do not currently address the provider types and standards proposed under this regulation so there will be no duplication or overlap of existing provisions.

In regards to other state, local, or federal regulations, there is no overlapping or duplication of existing regulations.

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

The proposed regulation is not required pursuant to federal law.

(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.

There are no federal regulations that address the requirements in the regulation

for all network plans in the individual and small group markets.

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 submissions must be received by the Division on or before November 26, 2018.** 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 North 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 3300 West Sahara Avenue, Suite 275, Las Vegas, Nevada 89102, 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:

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 Main Floor
101 North Carson Street

Nevada Department of Employment,
Training and Rehabilitation

Carson City, Nevada 89701

2800 E. Saint Louis Avenue
Las Vegas, NV 89104

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

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

Churchill County Library
553 South Main Street
Fallon, Nevada 89406

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

Elko County Library
720 Court Street
Elko, Nevada 89801

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

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

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

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

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

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

Lyon County Library
20 Nevin Way
Yerington, Nevada 89447

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

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

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

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

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

White Pine County Library
950 Campton Street
Ely, Nevada 89301

Members of the public who would like additional information about the proposed regulation may contact Susan Bell, Legal Secretary, at (775) 687-0704, or via e-mail to suebell@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, no later than five

(5) working days before the meeting: 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or suebell@doi.nv.gov.

DATED this __9th__ day of November, 2018.

/s/
BARBARA D. RICHARDSON
Commissioner of Insurance

HEARING AGENDA

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

December 14, 2018 • 9:30 a.m.

Location of Hearing:

Nevada 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:

Nevada Division of Insurance
3300 W. Sahara Ave., 4th Floor Nevada Room
Las Vegas, NV 89102
(Division Offices located in Suite 275)

1. Open Hearing: T005-18.
2. Presentation, Discussion and Adoption of Proposed Regulation. (For Possible Action)

LCB File No. T005-18. Network Adequacy Plan Year 2020 (Temporary).

A regulation relating to insurance; requiring a network plan to satisfy certain requirements before the Commissioner of Insurance can determine that such a network plan is adequate for sale in this state; and providing other matters properly relating thereto.

3. Public Comment.
4. Close Hearing: T005-18.

Supporting public material for this hearing may be requested from Susan Bell, Legal Secretary, Nevada Division of Insurance, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, (775) 687-0704, or suebell@doi.nv.gov.

Note: Any agenda item may be taken out of order; items may be combined for consideration by the public body; items may be pulled or removed from the agenda at any time; and, discussion relating to an item may be delayed or continued 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 the Commissioner's secretary, in writing, no later than five (5) working days before the hearing: 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or suebell@doi.nv.gov.

NOTICES FOR THIS HEARING 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, 3300 W. Sahara Avenue, Suite 275, Las Vegas, Nevada 89102

Nevada State Business Center, 3300 W. Sahara Avenue, Las Vegas, Nevada 89102

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 Dept. 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)