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STATE OF NEVADA

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DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

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**NOTICE OF INTENT TO ACT UPON 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”) will hold a public hearing as follows:

Date: June 30, 2020
Time: 10:00 a.m.
Location: (775) 687-7638 **NOTE: This meeting will be held via teleconference only.***

*Pursuant to Governor Sisolak’s March 22, 2020 Declaration of Emergency Directive 006, the requirement contained in NRS 241.023.1(b) that there be a physical location designated for meetings of public bodies where members of the public are permitted to attend and participate is suspended in order to mitigate the possible exposure or transmission of COVID-19 (Coronavirus). Accordingly, anyone planning to participate must participate by using the teleconference number. Meeting materials are available on the Division’s website at: <http://doi.nv.gov>.

The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment or repeal of regulations pertaining to chapters 689A, 689B, 689C, 695A, 695B, 695C, and 695G of the Nevada Administrative Code (“NAC”).

The following information is provided pursuant to the requirements of Nevada Revised Statutes (“NRS”) 233B.0603:

LCB File No. R054-20. COVID-19 PREVENTION AND CONTAINMENT.

A regulation relating to health insurance; requiring a health insurer to provide certain coverage and information relating to COVID-19; and providing other matters properly relating thereto.

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

This regulation seeks to continue to protect Nevadans by extending the emergency regulation that was promulgated on March 5, 2020, related to the COVID-19 pandemic. Given the fluid nature of this situation and the opened-ended timeline related to COVID-19, it has yet to be determined how and when this pandemic will end. As COVID-19 continues to spread throughout the world, it is essential that the Nevada Community take preventive measures to limit the spread of the virus in Nevada. The Division has determined that the cost of testing for COVID-19 may create a situation where Nevadans put off seeking medical services to determine if they have the virus due to costs they would incur for such medical services. Additionally, the Division believes having health insurers share useful information about benefits and options for medical services would help consumers and providers. Finally, the Division seeks to ensure that Nevadans can continue to get their needed prescriptions at normal costs despite disruptions to supplies in prescriptions.

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

The intent of this regulation is to limit the cost barriers that may prevent consumers from seeking diagnosis for COVID-19 by prohibiting health insurers from imposing out-of-pocket costs for a provider office, urgent care center, or emergency room visit when the purpose of the visit is to be tested for COVID-19. Furthermore, the regulation requires that no out-of-pocket costs be imposed for the testing of COVID-19 and for the COVID-19 immunization when one becomes available. In addition to reducing the potential cost barriers for consumers, the regulation is intended to inform consumers of the available benefits, options for medical advice and treatment through telehealth, and preventive measures related to COVID-19 by requiring the health insurers to issue guidance to consumers. Lastly, the regulation intends to ensure consumers are able to continue getting their needed prescriptions—at no additional cost to members—in the event of supply-chain delays and disruptions that occur as a result of the pandemic.

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

The Division anticipates that the regulation will assist in Nevada's effort to contain COVID-19. While the emergency regulation provides a short-term solution for assisting Nevadans with access to COVID-19 related medical services, insurance benefits and services information, and prescription drug shortages, the uncertainty surrounding the length of this pandemic requires that the Division look beyond the 120-day window of the emergency regulation.

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

An emergency regulation took effect on March 5, 2020, to provide a short-term solution for assisting Nevadans with access to COVID-19 related medical services, insurance benefits and services information, and needed prescription drugs. The emergency regulation expires 120 from the date the emergency regulation was signed. No other regulations address these issues.

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

No.

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

Consumers can seek diagnosis, testing, and immunization, once available, without concern for costs to them. The guidance required to be issued by insurers included in the regulation will allow consumers to be more informed about coverage as it relates to COVID-19, which will make them better prepared and ultimately limit the spread of the virus. The final piece of the regulation also ensures that consumers will have access to needed prescriptions regardless of what supply disruptions may occur during the pandemic.

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

- a. Public

1. Immediate: *Reducing the immediate barriers to getting medical services related to identifying COVID-19 for consumers of health plans will allow for faster identification of cases. This should help limit the spread of COVID-19, which will eventually allow economic activity to resume for all members of the public.*
 2. Long Term: *The provisions of this regulation will assist in the containment of COVID-19 which is necessary to end this pandemic and restore normal economic activity. The ability to contain COVID-19 at its earliest stages will play a major role in the long-term health of Nevada's citizens. Removal of a cost barrier to the public's seeking early testing will greatly impact the public's long-term outlook, as will the cost of immunization once that option is available.*
- b. Insurance Business
1. Immediate: *None*
 2. Long Term: *None*
- c. Small Businesses
1. Immediate: *This regulation will provide an immediate benefit to Nevada businesses because their Nevada employees can seek testing when the employees' health care provider determines such test is necessary, without concern for cost, which will minimize the risk of spread of COVID-19 at the small business location.*
 2. Long Term: *Limiting the impact of COVID-19 in Nevada during its earliest stages will have a substantial impact on business and Nevada's economy in the long-term. Making COVID-19 immunizations readily available to the public once the treatment is available will provide a major impact in the fight against this virus.*
- d. Small Communities
1. Immediate: *Reducing the immediate barriers to getting medical services related to identifying COVID-19 for consumers of health plans will allow for faster identification of cases. This will limit the spread of COVID-19 to all members of the public.*
 2. Long Term: *The identification and containment of COVID-19 will allow for a quicker response to the current pandemic and ultimately allow small communities to return to normal economic activities. The ability to contain COVID-19 at its earliest stages will play a major role in the long-term health of Nevada's citizens. Removal of a cost barrier to the public's seeking early testing will greatly impact the public's long-term outlook, as will the cost of immunization once that option is available. This is especially needed in smaller communities where medical services may be less available.*
- e. Government Entities
1. Immediate: *None*
 2. Long Term: *The identification and containment of COVID-19 will allow for a quicker response to the current pandemic and ultimately allow the public and economy to return to normal activities.*

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

- a. Public
1. Immediate: *The Division does not anticipate an adverse impact on the public.*
 2. Long Term: *The cost of insurance may increase in future years to offset losses incurred during the pandemic, since insurance carriers will have to recoup losses to ensure solvency.*
- b. Insurance Business
1. Immediate: *The regulations will result in increased and unplanned costs to the health insurers required to comply with this regulation.*
 2. Long Term: *This should not have a long-term adverse impact on insurers.*

- c. Small Businesses
 - 1. Immediate: *The Division does not anticipate an adverse impact.*
 - 2. Long Term: *The Division does not anticipate a long-term adverse impact.*
- 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?

- a. Enactment: *The Division does not anticipate any additional costs from the proposed regulations.*
- b. Enforcement: *The Division currently has procedures in place to monitor the requirements of health insurers' products and activities and does not anticipate additional costs for enforcing the proposed regulations.*
- c. Compliance: *The Division does not anticipate an additional cost.*

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

The regulation does not create 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 relied on the language of the proposed regulation, which is directed at health insurance carriers, as well as its expertise in insurance, to determine the impact on small businesses. The Division's Life and Health Section and members of the ACA Team discussed the regulation's impact upon small businesses, and they do not anticipate an impact on small businesses. The regulation currently exists as an emergency regulation, which was approved by the Governor on March 5, 2020, and, to date, the Division has not received comments that the emergency regulation has impacted small businesses.

(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 Governor adopted an emergency regulation of the Division on March 5, 2020, which sets forth the provisions in this proposed permanent regulation. Other than the emergency regulation, there are no regulations of other state or local governmental agencies that overlap or duplicate the proposed regulation. The federal government enacted the Families First Coronavirus Response Act (H.R.6201) on March 17, 2020, which imposes a similar requirement of the proposed regulation related to medical services and testing related to COVID-19. Notably, however, the federal law does not include the provisions related to guidance for consumers and the prescription disruption protections that are included in the provisions of this regulation.

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

The regulation is not required pursuant to federal law.

State of Nevada
Department of Business and Industry
Division of Insurance

AGENDA

June 30, 2020

10:00 a.m.

Call (775) 687-7638

This public hearing shall take place by teleconference only.

1. Open Hearing: R054-20.
2. Presentation, Discussion and Adoption of Proposed Regulation. (For Possible Action)

LCB File No. R054-20. COVID-19 PREVENTION AND CONTAINMENT.

A regulation relating to health insurance; requiring a health insurer to provide certain coverage and information relating to COVID-19; and providing other matters properly relating thereto.

3. Public Comment.
4. Close Hearing: R054-20.

Supporting public material for this hearing may be requested from Susan Bell, Legal Secretary, Nevada Division of Insurance by phone or email ((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 Division in writing, no later than five (5) working days before the workshop via email to suebell@doi.nv.gov.

Notices for this hearing have been provided via electronic means as follows:

Notice of the hearing was provided via electronic means as follows:

To all persons on the Division's e-mail list for noticing of administrative regulations.

Division of Insurance website: <http://doi.nv.gov>

Nevada Legislature website: <https://www.leg.state.nv.us/>

State of Nevada Public Notice website: <https://notice.nv.gov/>