

**LCB File No. R074-02**

**PROPOSED REGULATION OF THE  
COMMISSIONER OF INSURANCE**

**NOTICE OF WORKSHOPS TO SOLICIT COMMENTS ON  
PROPOSED REGULATIONS**

May 24, 2002

The Department of Business and Industry, Division of Insurance (Division) is proposing new regulations pertaining to the Essential Insurance Association, Medicare Supplement Policies, Bail Advertising, Prohibition of Discretionary Clauses in Health Insurance Plans, Audited Financial Reports, Dental Care and Policies of Health Insurance, and Multiple Employer Welfare Arrangements. A workshop has been set for 9:00 a.m., on June 28, 2002, at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701. Interested parties may also participate through a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, Manufactured Housing Division Conference Room, 2<sup>nd</sup> Floor, Las Vegas, Nevada 89104. The purpose of the workshop is to solicit comments from interested persons on the following general topics addressed in the proposed regulations.

- 1. Essential Insurance Association: Proposed regulation is to replace the emergency regulation of March 15, 2002, establishing the Medical Liability Association of Nevada, a Nevada Essential Insurance Association. Emergency regulations are effective for only a period of 120 days.**
- 2. Medicare Supplement Policies: Proposed regulation amends the requirements placed on insurers of Medicare Supplement policies to conform with federal laws. As a result of the federal passage of the Benefits Improvement and Protection Act and the Ticket to Work Act, coverage under Medicare has been modified. Changes to Medicare effects coverage under Medicare Supplement policies. The proposed changes to the Medicare Supplement regulations incorporate the federal changes.**
- 3. Bail Advertising: Proposed regulation adds language to ensure that the public is protected from deceptive or misleading advertising specifically related to bail transactions.**
- 4. Prohibition of Discretionary Clause in Health Insurance Plans: The proposed regulation prohibits a health carrier from issuing a policy, contract, certificate or agreement that contains a provision reserving discretion to the health carrier to interpret the terms of the contract, unless the carrier fully discloses all the rights available to the policyholder in the event of a dispute.**

5. **Audited Financial Reports: Proposed regulation updates certain requirements of insurers to register its independent certified public accountant with the Commissioner of Insurance and provides for the Commissioner of Insurance to not recognize an independent certified public accountant which has either directly or indirectly entered into an agreement of indemnity with respect to the audit of the insurer.**
  
6. **Dental Care and Policies of Health Insurance: Proposed regulation states that a health insurance policy that provides coverage for anesthesia in a hospital or out-patient setting must not deny coverage for anesthesia provided during certain dental procedures.**
  
7. **Multiple Employer Welfare Arrangements: Proposed regulation requires multiple employer welfare arrangements to meet the qualifications as any domestic insurer, set forth in Chapter 680A of the NRS.**

Members of the insurance industry, business community, and the public are also invited to comment on any impact the proposed regulations may have on small businesses. The Division has reviewed the proposed regulations and determined that the regulations do not impose a direct or significant impact on a small business, or directly restrict the formation, operation, or expansion of a small business.

A copy of this notice and the proposed regulations 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 proposed regulations will be available at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, 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 regulations 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 **www.leg.state.nv.us**. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

This Notice of Workshop to Solicit Comments on Proposed Regulations has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations:

Department of Business and Industry  
 Division of Insurance  
 788 Fairview Drive, Suite 300  
 Carson City, NV 89701

Department of Business and Industry  
 Division of Insurance  
 2501 East Sahara Avenue, Suite 302  
 Las Vegas, NV 89104

Legislative Counsel Bureau

Blasdel Building

Capitol Complex  
Carson City, NV 89710

Capitol Complex  
Carson City, NV 89710

State Capitol  
Capitol Complex  
Carson City, NV 89710

Capitol Press Room  
State Capitol Basement  
Carson City, NV 89710

County Clerk  
Courthouse  
Carson City, NV 89710

Nevada State Library & Archives  
Capitol Complex  
Carson City, NV 89710

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

Churchill County Library  
553 South Maine Street  
Fallon, NV 89406

Las Vegas Library  
833 Las Vegas Blvd. North  
Las Vegas, NV 89101

Douglas County Library  
1625 Library Lane  
P.O. Box 337  
Minden, NV 89423

Elko County Library  
720 Court Street  
Elko, NV 89801

Goldfield Public Library  
Fourth & Cook Street  
P.O. Box 430  
Goldfield, NV 89013

Eureka Branch Library  
10190 Monroe Street  
P.O. Box 293  
Eureka, NV 89316

Humboldt County Library  
85 East 5<sup>th</sup> Street  
Winnemucca, NV 89445

Battle Mountain Branch Library  
P.O. Box 141  
Battle Mountain, NV 89820

Lincoln County Library  
93 Main Street  
P.O. Box 330  
Pioche, NV 89043

Lyon County Library  
20 Nevin Way  
Yerington, NV 89447

Mineral County Library  
First & A Street  
P.O. Box 1390  
Hawthorne, NV 89415

Tonopah Public Library  
171 Central Street  
P.O. Box 449  
Tonopah, NV 89049

Pershing County Library  
1125 Central Avenue  
P.O. Box 781  
Lovelock, NV 89419

Storey County Library  
95 South R Street

Washoe County Library  
301 South Center Street

P.O. Box 14  
Virginia City, NV 89440

P.O. Box 2151  
Reno, NV 89505

White Pine County Library  
950 Campton Street  
Ely, NV 89301

Clark County Library  
1401 East Flamingo Road  
Las Vegas, NV 89119

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 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, or by calling no later than 5 working days prior to the hearing, (775) 687-4270, extension 260.

DATED this \_\_\_\_\_ day of May, 2002.

By: \_\_\_\_\_  
ALICE A. MOLASKY-ARMAN  
Commissioner of Insurance

## NOTICE OF INTENT TO ACT UPON REGULATIONS

### Notice of Hearing for the Adoption of Regulations of the Department of Business and Industry, Division of Insurance

The Department of Business and Industry, Division of Insurance (Division) will hold a public hearing at 9:00 a.m., on June 28, 2002, immediately following a public workshop, at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701. Interested persons may also participate through a simultaneous video-conference conducted at the Bradley Building, 2501 East Sahara Avenue, Manufactured Housing Division Conference Room, Second Floor, Las Vegas, Nevada 89104. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations pertaining to the prohibition of a discretionary clause in health insurance plans.

#### REGULATION CONCERNING THE PROHIBITION DISCRETIONARY CLAUSE IN HEALTH INSURANCE PLANS

The following information is provided pursuant to the requirements of NRS 233B.060:

1. The proposed regulation assures that health insurance benefits are guaranteed by contract to avoid the conflict of interest that may occur when the health carrier has unfettered authority to decide what benefits are payable.
2. The proposed regulation states that no policy, contract, certificate or agreement offered in this state by a health carrier may contain a provision that reserves discretion to the health carrier to interpret the terms of the contract that are inconsistent with the laws of this state unless the health carrier fully discloses all other rights available to the policyholder in the event of a dispute.
3. Estimated economic effect of the regulation:  
On the business which it is to regulate:  
The proposed regulation may have a minimal impact on the industry.  
On the public:  
The proposed regulation should have no economic impact on the public.
4. The Division expects to incur some additional expense to enforce the proposed regulation.
5. The Division is not aware of any overlap or duplication of the regulation with any state, local or federal regulation.
6. The proposed regulation does not establish any new fees or increase an existing fee.

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, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701. Written submissions must be received by the Division on or before June 21, 2002. 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 proposed 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 to be amended will be available at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, 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://www.leg.state.nv.us>. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will 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.

This notice of hearing has been posted at the following locations:

Department of Business and Industry  
Division of Insurance  
788 Fairview Drive, Suite 300  
Carson City, NV 89701

Department of Business and Industry  
Division of Insurance  
2501 East Sahara Avenue, Suite 302  
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at 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, or by calling no later than 5 working days prior to the hearing, (775) 687-4270, extension 260.

DATED this \_\_\_\_\_ day of May, 2002.

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ALICE A. MOLASKY-ARMAN  
Commissioner of Insurance



**PROPOSED REGULATION OF THE  
COMMISSIONER OF INSURANCE**

**STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF INSURANCE**

**May 28, 2002**

**REGULATION CONCERNING THE PROHIBITION DISCRETIONARY CLAUSE IN  
HEALTH INSURANCE PLANS**

Authority: NRS 679B.130 and NRS 686A.015.

**Section 1.** *Chapter 686A of the NAC is hereby amended by adding thereto the provisions set forth in sections 2 to 10, inclusive, of this regulation.*

**Section 2.** *The purpose of this regulation is to assure that health insurance benefits are guaranteed by contract, and to avoid the conflict of interest that occurs when the health carrier responsible for providing benefits has unfettered authority to decide what benefits are due. Nothing in this regulation shall be construed as imposing any requirement or duty on any person other than a health carrier.*

**Section 3.** *“Commissioner” means the Commissioner of Insurance.*

**Section 4.** *“Health care services” means services for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury or disease.*

**Section 5.** *“Health carrier” has the meaning ascribed to it in NRS 689C.025.*

**Section 6.** *“Person” means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity or combination of the foregoing.*

**Section 7. 1.** *No policy, contract, certificate or agreement offered or issued in this state by a health carrier to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services may contain a provision purporting to reserve discretion to the health carrier to interpret the terms of the contract, or to provide standards of interpretation or review that are inconsistent with the laws of this state.*

**2.** *A provision purporting to reserve discretion to the health carrier to interpret the terms of a policy, contract, certificate or agreement may be offered or issued in this state if the health carrier fully discloses to the policyholder all other rights available to it in the event of a dispute involving the policy, contract, certificate or agreement. Such rights include, but are not limited to: protections afforded by the federal law known as ERISA, fiduciary responsibilities of the health carrier, rights of appeal and review under NRS 689B.0285, the*

*right to file formal complaints with the Division of Insurance or the Governor's Office of Consumer Health Assistance and remedies in court or through arbitration. The provision purporting to reserve discretion by the health carrier must include such rights.*

**Section 8.** *A violation of this regulation shall be subject to the penalties as provided in NRS 686A.187.*

**Section 9.** *If any provision of this regulation, or the application of the provision to any person or circumstance, shall be held invalid, the remainder of the regulation, and the application of the provision to persons or circumstances other than those to which it is held invalid, shall not be affected.*

**Section 10.** This regulation shall be effective upon adoption.