

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R074-02

June 25, 2002

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

AUTHORITY: §§1-7, NRS 679B.130 and 686A.015.

Section 1. Chapter 686A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 7, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Health care services” means services for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury or disease.*

Sec. 4. *“Health carrier” means any person who provides health insurance in this state, including a fraternal benefit society, a health maintenance organization, a nonprofit hospital and health service corporation, a health insurance company and any other person providing a plan of health insurance or health benefits subject to Title 57 of NRS.*

Sec. 5. *The purpose of sections 2 to 7, inclusive, of this regulation is to ensure 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. The provisions of sections 2 to 7, inclusive, of this regulation, must not be construed as imposing any requirement or duty on any person other than a health carrier.*

Sec. 6. 1. *Except as otherwise provided in this section, a policy, a contract, a certificate or an 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 must not contain any provision purporting to reserve discretion to the health carrier to interpret the terms of the policy, contract, certificate or agreement, 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 a health carrier to interpret the terms of a policy, contract, certificate or agreement may be included in a policy, contract, certificate or agreement offered or issued in this state if the health carrier fully discloses to the policyholder and includes in the provision all other rights available to the policyholder in the event of a dispute involving the policy, contract, certificate or agreement, including, without limitation:*

(a) The protections afforded under the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.;

(b) The fiduciary responsibilities of the health carrier;

(c) The rights of appeal and review pursuant to NRS 689B.0285;

(d) The right of the policyholder to file a formal complaint with the division or with the office for consumer health assistance in the office of the governor; and

(e) The remedies available in court or through arbitration.

Sec. 7. *A health carrier that violates any provision of section 6 of this regulation is subject to the issuance of a cease and desist order pursuant to NRS 686A.183 and to the penalties provided in NRS 686A.187 for any violation of that order.*