

**ADOPTED REGULATION OF THE
BOARD OF THE PUBLIC EMPLOYEES' BENEFITS PROGRAM**

LCB File No. R107-09

§§1, 2, 4, 5, 7, 9, 11 to 19, inclusive, 22 and 23 effective April 20, 2010
§§3, 6, 8, 10, 20 and 21 effective July 1, 2010

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

AUTHORITY: §§1, 2, 4, 5, 11-18 and 23, NRS 287.043; §§3, 6-10 and 19-22, NRS 122A.100 and 287.043.

A REGULATION relating to public employees; providing requirements for the establishment of eligibility for coverage for domestic partners under the Public Employees' Benefits Program; requiring notification to the Program of the termination of participants' marriages or domestic partnerships; revising provisions governing the orientation provided by public employers and the Program to newly appointed public officers and employees; revising provisions relating to the payment by public employers, public officers and employees, and retired public officers and employees of premiums and contributions for participation in the Program; and providing other matters properly relating thereto.

Section 1. Chapter 287 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

Sec. 2. *“Continuous employment”:*

- 1. Includes a break in employment of less than 1 year; and*
- 2. Does not include a break in employment of 1 year or more.*

Sec. 3. *“Domestic partner” means a person who is in a domestic partnership that is registered pursuant to the Nevada Domestic Partnership Act, which is chapter 122A of NRS, and that has not been terminated pursuant to the Act.*

Sec. 4. *“Initial date of hire” means the first date on which service credit is earned by a participant during the participant’s last period of continuous employment with a public employer, as determined by the appropriate certifying agency.*

Sec. 5. *If a participant and his spouse are granted a divorce, the participant shall, within 60 days after the date on which the decree of divorce is signed, notify the Program of the divorce and submit to the Program a copy of the decree of divorce.*

Sec. 6. *To establish the eligibility of a domestic partner for coverage as a dependent, a participant must submit to the Program:*

1. A copy of the Certificate of Registered Domestic Partnership issued to the participant and his domestic partner pursuant to the Nevada Domestic Partnership Act, which is chapter 122A of NRS; and

2. A statement to be acknowledged by the participant that the participant is responsible for any federal income tax consequences resulting from the enrollment of the domestic partner in the Program.

Sec. 7. NAC 287.035 is hereby amended to read as follows:

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287.035 “Dependent” includes, without limitation:

1. One spouse from a marriage pursuant to law ; ~~for one domestic partner;~~ and

2. Any child described in NAC 287.312,

↪ who is determined to be eligible for coverage pursuant to NAC 287.313.

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Sec. 8. NAC 287.035 is hereby amended to read as follows:

287.035 “Dependent” includes, without limitation:

1. One spouse from a marriage pursuant to law ~~;~~ *or one domestic partner;* and

2. Any child described in NAC 287.312,

↳ who is determined to be eligible for coverage pursuant to NAC 287.313.

Sec. 9. NAC 287.312 is hereby amended to read as follows:

287.312 1. ~~[The]~~ *Except as otherwise provided in subsection 4, the* following ~~[persons]~~ *children of a participant or his spouse* are eligible for coverage as a dependent if approved pursuant to NAC 287.313:

(a) Any ~~[unmarried]~~ child ~~[of the participant, his spouse or domestic partner,]~~ who is under the age of 19 years.

(b) Any ~~[unmarried]~~ child ~~[of the participant, his spouse or domestic partner,]~~ who is 19 years of age or older if:

(1) At the age of 19 years, the child is incapable of self-support because of a physical or mental disability;

(2) On the 19th birthday of the child, the child is covered by the Program or has received continuous coverage since the child was 18 years of age as a dependent under another group health plan or credible coverage; and

(3) Within 30 days after the 19th birthday of the child, if the child is covered by the Program on the 19th birthday of the child or, if the child is initially enrolled in the Program on his 19th birthday, within 30 days after the effective date of the child's coverage under the Program, the participant ~~[,]~~ *or* his spouse ~~[or domestic partner]~~ provides to the Program:

(I) A written statement by a physician who provides care to the child that is prepared within 90 days before provision of the statement to the Program indicating that the child has a mental or physical impairment which causes the child to be incapable of self-sustaining employment and to depend on the participant ~~[,]~~ *or* his spouse ~~[or domestic partner]~~ primarily for support; and

(II) Any other documentation required by the Program that demonstrates financial support of the child by the participant ~~[,]~~ *or* his spouse . ~~[or domestic partner.]~~

(c) Any ~~[unmarried]~~ child ~~[of the participant, his spouse or domestic partner.]~~ who is 19 years of age or older but less than 24 years of age, if the child is enrolled in a program of secondary education or an independently accredited program of postsecondary education, including, without limitation, a college, university, community or junior college, graduate school and accredited trade or business school, on a full-time basis.

(d) Any ~~[unmarried]~~ child ~~[of the participant, his spouse or domestic partner.]~~ who is 24 years of age or older, if:

(1) The child was enrolled in a program of secondary education or an independently accredited program of postsecondary education, including, without limitation, a college, university, community or junior college, graduate school and accredited trade or business school, on a full-time basis between his 19th birthday and his 24th birthday;

(2) At the age of 24 years, the child is incapable of self-support because of a physical or mental disability if the disability occurred while the child was a full-time student; and

(3) The participant ~~[,]~~ *or* his spouse ~~[or domestic partner]~~ provides supporting evidence to the Program within 30 days after the 24th birthday of the child which demonstrates that the child qualifies for coverage and insurance pursuant to this paragraph.

2. To determine whether the child of a participant ~~[,]~~ *or* his spouse ~~[or domestic partner]~~ continues to be eligible for coverage pursuant to paragraph (b) of subsection 1, the Executive Officer or his designee may require:

(a) Submission of periodic updates to the documentation provided by the participant ~~[,]~~ *or* his spouse ~~[or domestic partner]~~ pursuant to subparagraph (3) of paragraph (b) of subsection 1; and

(b) Submission of the child to a mental or physical examination conducted by a physician selected by and at the expense of the Program.

3. Children eligible for coverage as a dependent pursuant to this section may include biological children, adopted children, children placed in the residence of the participant for adoption, stepchildren and any other child who is related to the participant ~~[.]~~ *or* his spouse ~~[or domestic partner]~~ if the participant ~~[.]~~ *or* his spouse ~~[or domestic partner]~~ is legally responsible for the child and the child is financially dependent on the participant ~~[.]~~ *or* his spouse ~~[or domestic partner]~~ for care and support. ~~[A foster child is]~~

4. *The following children of a participant or his spouse are* not eligible for coverage as a dependent ~~[.]~~:

(a) A foster child.

(b) A child who is married.

Sec. 10. NAC 287.312 is hereby amended to read as follows:

SECOND
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287.312 1. Except as otherwise provided in subsection 4, the following children of a participant or his spouse *or domestic partner* are eligible for coverage as a dependent if approved pursuant to NAC 287.313:

(a) Any child who is under the age of 19 years.

(b) Any child who is 19 years of age or older if:

(1) At the age of 19 years, the child is incapable of self-support because of a physical or mental disability;

(2) On the 19th birthday of the child, the child is covered by the Program or has received continuous coverage since the child was 18 years of age as a dependent under another group health plan or credible coverage; and

(3) Within 30 days after the 19th birthday of the child, if the child is covered by the Program on the 19th birthday of the child or, if the child is initially enrolled in the Program on his 19th birthday, within 30 days after the effective date of the child's coverage under the Program, the participant or his spouse *or domestic partner* provides to the Program:

(I) A written statement by a physician who provides care to the child that is prepared within 90 days before provision of the statement to the Program indicating that the child has a mental or physical impairment which causes the child to be incapable of self-sustaining employment and to depend on the participant or his spouse *or domestic partner* primarily for support; and

(II) Any other documentation required by the Program that demonstrates financial support of the child by the participant or his spouse ~~or~~ *or domestic partner*.

(c) Any child who is 19 years of age or older but less than 24 years of age, if the child is enrolled in a program of secondary education or an independently accredited program of postsecondary education, including, without limitation, a college, university, community or junior college, graduate school and accredited trade or business school, on a full-time basis.

(d) Any child who is 24 years of age or older, if:

(1) The child was enrolled in a program of secondary education or an independently accredited program of postsecondary education, including, without limitation, a college, university, community or junior college, graduate school and accredited trade or business school, on a full-time basis between his 19th birthday and his 24th birthday;

(2) At the age of 24 years, the child is incapable of self-support because of a physical or mental disability if the disability occurred while the child was a full-time student; and

(3) The participant or his spouse *or domestic partner* provides supporting evidence to the Program within 30 days after the 24th birthday of the child which demonstrates that the child qualifies for coverage and insurance pursuant to this paragraph.

2. To determine whether the child of a participant or his spouse *or domestic partner* continues to be eligible for coverage pursuant to paragraph (b) of subsection 1, the Executive Officer or his designee may require:

(a) Submission of periodic updates to the documentation provided by the participant or his spouse *or domestic partner* pursuant to subparagraph (3) of paragraph (b) of subsection 1; and

(b) Submission of the child to a mental or physical examination conducted by a physician selected by and at the expense of the Program.

3. Children eligible for coverage as a dependent pursuant to this section may include biological children, adopted children, children placed in the residence of the participant for adoption, stepchildren and any other child who is related to the participant or his spouse *or domestic partner* if the participant or his spouse *or domestic partner* is legally responsible for the child and the child is financially dependent on the participant or his spouse *or domestic partner* for care and support.

4. The following children of a participant or his spouse *or domestic partner* are not eligible for coverage as a dependent:

(a) A foster child.

(b) A child who is married.

(c) A child who is in a domestic partnership.

Sec. 11. NAC 287.314 is hereby amended to read as follows:

287.314 1. Except as otherwise provided in subsection ~~3~~, a participating public agency shall, upon appointing to the participating public agency a person who will be eligible to participate in the Program pursuant to NRS 287.045, ensure that the employee attends an orientation program conducted by the Program within 60 days after he begins his employment with the participating public agency or, if the employee is unable to attend the orientation program, that the employee receives the packet of information in accordance with NAC 287.317. The Program shall provide to the employee at the orientation program information concerning the benefits provided.

~~2.~~ A participating state agency which is required to grant release time pursuant to NAC 284.484 shall grant release time to such an employee to attend the orientation program.

~~3.]~~ *4, the Executive Officer or his designee shall provide to each person eligible to participate in the Program pursuant to NRS 287.045 information about the Program.*

2. The information required to be provided pursuant to subsection 1:

(a) Must be sent to the person electronically or by first-class mail within 30 days after the appointment of the person to a participating public agency; and

(b) Must include, without limitation:

(1) Enrollment forms; and

(2) A summary of the benefits available through the Program.

3. The Executive Officer or his designee shall make the information about the Program described in paragraph (b) of subsection 2 available on an Internet website established and maintained by the Program.

4. The provisions of this section do not apply to any person who is employed by the Nevada System of Higher Education.

Sec. 12. NAC 287.317 is hereby amended to read as follows:

287.317 1. ~~[The Executive Officer or his designee shall conduct the orientation program required pursuant to NAC 287.314 each month at locations designated by the Executive Officer or his designee.~~

~~—2.]~~ A participating public agency shall, upon appointing to the participating public agency a person who will be eligible to participate in the Program pursuant to NRS 287.045, ~~[request that the Executive Officer or his designee]~~ register the employee for ~~[the orientation program at the location which is nearest to the employee's place of employment. The request]~~ *receipt of the information about the Program that is required to be provided to the employee pursuant to NAC 287.314. The registration* must be *provided* in a format prescribed by the Program and submitted to the Program not later than 7 days after the employee's first day of employment with the participating public agency.

~~[3.—The participating public agency shall notify the employee that he must]~~

2. *Except as otherwise provided in subsection 3, the employee shall* return to the participating public agency or the Program the completed enrollment forms and any supporting documents within 7 days after ~~[attending an orientation program prescribed by the Program pursuant to subsection 2.]~~ *receiving the information pursuant to NAC 287.314.* If the employee fails to submit ~~[an enrollment form]~~ *the enrollment forms* and any supporting documents within 7 days after ~~[attending the orientation program,]~~ *receiving the information,* the employee only will be ~~[placed]~~ *enrolled* in the base plan . ~~[of the self-funded plan.~~

~~—4.—If an employee cannot attend the orientation program, a complete packet with enrollment information must be provided to the employee. An employee has 60 days from his first day of employment to submit an enrollment form with his selections. If an employee fails to submit an~~

~~enrollment form within the 60-day period, the employee only will be placed in the base plan of the self-funded plan.~~

~~—5. If a member]~~

3. *If an employee* of the professional staff of the Nevada System of Higher Education fails to submit an enrollment form within 30 days after his date of hire, as set forth in his contract, the ~~[member]~~ *employee* only will be ~~[placed]~~ *enrolled* in the base plan. ~~[of the self-funded plan.~~

~~—6.]~~ 4. As used in this section, “base plan” means the plan designated by the Board as the default plan for the plan year, as described in the plan documents.

Sec. 13. NAC 287.319 is hereby amended to read as follows:

287.319 A participant ~~[or dependent]~~ shall notify the Program within 30 days after a change of address of the participant. ~~[or dependent.]~~

Sec. 14. NAC 287.420 is hereby amended to read as follows:

287.420 1. The total of the premiums or contributions which is billed by the Program and is owed by a public employer which:

(a) Employs an officer or employee;

(b) Is legally responsible for the surviving spouse or child of a police officer, firefighter or volunteer firefighter killed in the line of duty; or

(c) Pays a subsidy for any of its retired officers or employees,

↪ for the officer, employee, surviving spouse or child, or retired officer or employee who elects to participate in the Program and the respective premium or contribution, if any, which is deducted from his compensation must be received by the Program by the 25th of each month.

2. If a public employer does not pay the amount billed by the Program, the Program shall determine if a penalty that is based on the amount actually paid should be assessed. If the total

payments made by the public employer were less than the amount billed to the public employer, the Program may, for good cause shown, assess a monthly *compounded* penalty of 1.5 percent of the unpaid balance ~~{}~~, *which will include, without limitation, any unpaid subsidies, penalties or adjustments.*

3. For the purposes of this section, if the 25th day of the month is a Saturday, Sunday or legal holiday, the payment of a premium or contribution is timely if it is received on the next day which is not a Saturday, Sunday or legal holiday.

Sec. 15. NAC 287.430 is hereby amended to read as follows:

287.430 A person, other than a person who elects to continue coverage pursuant to the Public Health Service Act, 42 U.S.C. § 300bb-1(a), who:

1. Enrolls, reenrolls, joins or is continuing coverage in the Program; and
2. Is responsible for the payment of the premium or contribution for group insurance

directly to the Program or an insurer,

↪ shall pay the premium or contribution to the Program or insurer, as appropriate, no later than the ~~{last day of the month of coverage.}~~ *date which is 30 days after the due date of the payment, as determined by the Program.* If the total amount of the premium or contribution is not received by ~~{the last day of the month,}~~ *that date*, the coverage will be cancelled effective on the last day of the month that the coverage was fully paid unless the particular contract of coverage or insurance for which payment is being made otherwise provides.

Sec. 16. NAC 287.440 is hereby amended to read as follows:

287.440 ~~{The following retired}~~

1. Except as otherwise provided in subsection 2, retired officers and employees shall pay their premiums or contributions directly to the Program.

2. *Retired* officers and employees ~~[may]~~ *who receive a retirement benefit from the Public Employees' Retirement System shall* pay *their* premiums or contributions ~~[for group coverage or insurance]~~ to the Program ~~[-~~

~~—1.— Except as otherwise provided in subsection 2, a retired officer or employee who is receiving retirement benefits, if]~~ *through an automatic deduction from that benefit unless* the retirement benefit is less than the premium or contribution.

~~[2.— A retired officer or employee who is receiving retirement benefits from the Nevada System of Higher Education.]~~

Sec. 17. NAC 287.450 is hereby amended to read as follows:

287.450. 1. A participating public agency that employs an employee who is on leave without pay shall not pay any amount of the cost of premiums or contributions that is due the Program for group insurance for that employee unless the employee is compensated for a combination of work actually performed and accrued annual leave or sick leave, if the total is at least 80 hours per month for each month that coverage or insurance is provided.

2. An employee who is on approved leave without pay:

(a) May continue coverage or insurance for himself and any of his eligible dependents:

(1) If the amount of the paycheck of the employee is more than the cost of the premium or contribution, by having the cost of the premium or contribution deducted from his paycheck; or

(2) If the amount of the paycheck of the employee is less than the cost of the premium or contribution, by paying the cost of the premium or contribution directly to the Program.

(b) Is not eligible for coverage or insurance as a dependent of ~~[his spouse or domestic partner if his spouse or domestic partner is also covered under the Program.]~~ *a participant; and*

(c) Is not eligible for coverage or insurance if the employee elects not to pay the premium or contribution for coverage or insurance.

3. If an employee who is on approved leave without pay elects not to pay the premium or contribution for coverage and insurance from the Program and returns to work:

(a) Within 1 year after the last day of his coverage from the Program, the employee is not required to complete 90 days of full-time employment before being eligible to participate in the Program.

(b) One year or more after taking leave without pay, the employee is eligible to participate in the Program on the first day of the month following 90 days of full-time employment.

4. An employee who is on approved leave without pay may, at the time he returns to work, obtain coverage and insurance for any dependent who was previously covered.

Sec. 18. NAC 287.485 is hereby amended to read as follows:

287.485 1. To obtain ~~for reinstate~~ a subsidy, a retired officer or employee who participates in the Program must report to the Program, on a form prescribed by the Program, each public employer with which he earned service credit and the period of service with each such public employer.

2. *The Executive Officer or a designee of the Executive Officer shall request an audit from the appropriate certifying agency to determine the initial date of hire of a retired officer or employee and the years and months of service credit earned by the retired officer or employee with each public employer of the retired officer or employee during the period of that employment. Such a request must be made within 14 days after the later of:*

(a) The receipt of the report made to the Program pursuant to subsection 1; or

(b) The date of the retirement of the retired officer or employee.

3. For the ~~[purpose]~~ *purposes* of ~~[subsection]~~ *subsections* 1 ~~[,]~~ *and 2*, service credit:

(a) Must be computed in the manner set forth in NRS 286.495 or 286.501, as applicable;

(b) Must include any service credit that has been restored by the repayment of contributions that the retired officer or employee had withdrawn from the Public Employees' Retirement System pursuant to NRS 286.430; and

(c) Must not include any service credit that was purchased pursuant to NRS 1A.310 or 286.300.

~~[3-]~~ 4. Except as otherwise provided in subsection ~~[9, a]~~ 5, *the Executive Officer or a designee of the Executive Officer shall not submit a bill to a public employer for a subsidy for a retired officer or employee until an audit requested pursuant to subsection 2 for the retired officer or employee is received by the Program.*

5. *If an audit requested pursuant to subsection 2 is received after the date on which coverage of the retired officer or employee becomes effective, the Executive Officer or a designee of the Executive Officer shall submit to the previous public employer of the retired officer or employee a bill for the subsidy incurred between the date on which coverage of the retired officer or employee became effective and the date on which the audit was received.*

6. A public employer shall commence payment of its subsidy for a retired officer or employee ~~[on the first day of the month on which coverage of the person as a retired officer or employee becomes effective.~~

~~—4.— If a public employer disputes the service credit which is reported to the Program by a retired officer or employee pursuant to subsection 1, the public employer may file an appeal with the Executive Officer unless an audit related to the same retired officer or employee has been requested and completed pursuant to subsection 6. Such an appeal must:~~

- ~~—(a) Be submitted in writing within 3 months after the commencement of the billing for the subsidy;~~
- ~~—(b) Set forth the basis of the dispute; and~~
- ~~—(c) Be accompanied by any applicable supporting documentation relating to the requirements for computing credit for service set forth in NRS 286.495 or 286.501.~~
- ~~—5.— If an appeal is filed pursuant to subsection 4, the Executive Officer shall, within 14 days after receipt of the appeal, request an audit from the appropriate certifying agency to determine the years and months of service credit earned by the retired officer or employee with each public employer of the retired officer or employee.~~
- ~~—6.— If the total service credit reported to the Program by the retired officer or employee pursuant to subsection 1 does not correspond with the total service credit for that retired officer or employee that is contained in the records of the Program, the Executive Officer shall, within 14 days after receipt of the form from the retired officer or employee pursuant to subsection 1, request an audit from the appropriate certifying agency to determine the years and months of service credit earned by the retired officer or employee with each public employer of the retired officer or employee.~~
- ~~—7.— If an audit is requested pursuant to subsection 5 or 6, the Executive Officer shall forward all relevant materials relating to the disputed service credit to the appropriate certifying agency.~~
- ~~—8.— Until an audit requested pursuant to subsection 5 is completed by the certifying agency and submitted to the Program, the public employer of the retired officer or employee shall continue to pay the subsidy at an amount that is based on the service credit reported to the Program by the retired officer or employee pursuant to subsection 1.~~

~~—9.—The Executive Officer or his designee shall not bill the subsidy for the retired officer or employee to any public employer:~~

~~—(a) Until an audit requested pursuant to subsection 6 is completed by the certifying agency and submitted to the Program.~~

~~—(b) For any period that is more than 3 months before the date on which the retired officer or employee submitted a form to the Program pursuant to subsection 1.~~

~~—10.—The results of an audit conducted by a certifying agency is the final determination of the service credit earned by the retired officer or employee with each public employer of the retired officer or employee.~~

~~—11.—If the results of an audit conducted by a certifying agency require an adjustment of the amount of a subsidy for a retired officer or employee:~~

~~—(a) For an audit requested pursuant to subsection 5, except as otherwise provided in this paragraph, the Executive Officer or his designee shall adjust the amount of the subsidy as of the first day of the month for which the appeal was filed. If the audit is not completed within 3 months after the first day of the month for which the appeal was filed, the Executive Officer or his designee shall adjust the amount of the subsidy as of the first day of the first month that is 3 months before the month in which the audit was completed.~~

~~—(b) For an audit requested pursuant to subsection 6, except as otherwise provided in this paragraph, the Executive Officer or his designee shall adjust the amount of the subsidy as of the first day of the month following the date on which the retired officer or employee submitted a form pursuant to subsection 1. If the audit is not completed within 3 months after submission of the form, the Executive Officer or his designee shall adjust the amount of the subsidy as of the first day of the first month that is 3 months before the month in which the audit was completed.~~

~~—12.—The Executive Officer or his designee shall determine the amount of the subsidy for a retired officer or employee who was eligible for but declined to receive health benefits from his last public employer in the same manner as for a retired officer or employee who was eligible for and received health benefits from his last public employer.] upon receipt of the bill for the subsidy.~~

7. If, after receiving an audit requested pursuant to subsection 2, the Program receives any additional audit for the retired officer or employee for whom the original audit was conducted:

(a) The Program shall adjust the amount to be billed to the retired officer or employee and to the previous public employer of the retired officer or employee according to the years and months of service credit reported in the most recent audit; and

(b) Any such adjustment will be effective on the first day of the month after the receipt by the Program of the most recent audit.

8. A public employer or other entity may assume from a public employer the liability for the years and months of service credit earned by a retired officer or employee if the public employer assuming the liability submits a written certification to the Program containing:

(a) The name and social security number of the retired officer or employee;

(b) The dates during which the service credit for which the public employer or other entity is assuming liability was earned by the retired officer or employee;

(c) A statement acknowledging that the public employer or other entity is assuming the liability associated with the dates listed pursuant to paragraph (b);

(d) A signature of the director or chief executive officer of the public employer or other entity assuming liability, or a designee of the director or chief executive officer of the public employer or other entity assuming liability; and

(e) The name, title and contact information of the person who signed the certification.

9. If a public employer with which a retired officer or employee earned service credit ceases to exist as a public employer, the public employer that has the most direct jurisdictional association with the public employer that ceases to exist, as determined by the Executive Officer, shall assume liability for the years and months of service credit earned by the retired officer or employee with the public employer that ceases to exist.

10. The results reported in an audit received by the Program pursuant to the provisions of this section may not be appealed.

Sec. 19. NAC 287.530 is hereby amended to read as follows:

FIRST
PARALLEL
SECTION

287.530 1. If the participant and his spouse ~~{or domestic partner}~~ are retired officers or employees who retired before July 1, 2004, and elect to participate in the Program, one may elect to be the dependent of the other. A spouse ~~{or a domestic partner}~~ who elected to be the dependent pursuant to this subsection may elect to become a primary insured during open enrollment. If the retired officer or employee designated as the primary insured dies, the spouse ~~{or domestic partner}~~ who elected to be the dependent becomes the primary insured.

2. A person who retires on or after July 1, 2004, and who is eligible to participate in the Program as a primary insured may not elect to be a dependent of his spouse ~~{or domestic partner}~~ who is a primary insured in the Program.

3. A surviving spouse ~~{or domestic partner}~~ who:

(a) Retired before July 1, 2004;

(b) Is enrolled in the Program as a surviving dependent; and

(c) Is eligible to participate in the Program as a primary insured,

↳ may elect to change his status to retiree status during open enrollment. A person who chooses such an election pursuant to this subsection must meet the requirements of NAC 287.485 to be eligible for a subsidy.

4. A person who is *the surviving spouse or* a surviving dependent of a deceased officer or employee of a participating public agency, or a deceased retired officer or employee, and who, at the time of his death, was a participant under the Program, may maintain the coverage or insurance from the Program if:

(a) The ~~[surviving]~~ *spouse or* dependent receives retirement benefits from which premiums or contributions can be deducted or such *spouse or* dependent pays the premium or contribution directly to the Program; and

(b) Within 60 days after the date of death of the participant, the surviving *spouse or* dependent:

(1) Notifies the last public employer of the deceased participant that the surviving *spouse or* dependent intends to enroll in or continue coverage by reenrolling in the Program; and

(2) Enrolls or reenrolls, as appropriate, in the Program.

5. Continued coverage provided to a surviving *spouse or* dependent who reenrolls in the Program in accordance with this section may not be changed until the next *enrollment* period ~~[of open-enrollment.]~~ *that is open to all participants of the Program.*

6. If the surviving spouse ~~[or domestic partner]~~ has a dependent who is not covered under the Program at the time of death of the officer or employee of a participating public agency, or

retired officer or employee, or acquires a dependent by marriage, adoption or birth, the dependent is not eligible for coverage or insurance.

7. A retired officer or employee who wishes to enroll or reenroll in the Program more than 60 days after his official date of retirement or total disability must comply with the requirements of NRS 287.0475.

Sec. 20. NAC 287.530 is hereby amended to read as follows:

SECOND
PARALLEL
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287.530 1. If the participant and his spouse *or domestic partner* are retired officers or employees who retired before July 1, 2004, and elect to participate in the Program, one may elect to be the dependent of the other. A spouse *or a domestic partner* who elected to be the dependent pursuant to this subsection may elect to become a primary insured during open enrollment. If the retired officer or employee designated as the primary insured dies, the spouse *or domestic partner* who elected to be the dependent becomes the primary insured.

2. A person who retires on or after July 1, 2004, and who is eligible to participate in the Program as a primary insured may not elect to be a dependent of his spouse *or domestic partner* who is a primary insured in the Program.

3. A surviving spouse *or domestic partner* who:

- (a) Retired before July 1, 2004;
- (b) Is enrolled in the Program as a surviving dependent; and
- (c) Is eligible to participate in the Program as a primary insured,

↪ may elect to change his status to retiree status during open enrollment. A person who chooses such an election pursuant to this subsection must meet the requirements of NAC 287.485 to be eligible for a subsidy.

4. A person who is ~~the surviving spouse or~~ a surviving dependent of a deceased officer or employee of a participating public agency, or a deceased retired officer or employee, and who, at the time of his death, was a participant under the Program, may maintain the coverage or insurance from the Program if:

(a) The ~~spouse or~~ *surviving* dependent receives retirement benefits from which premiums or contributions can be deducted or such ~~spouse or~~ dependent pays the premium or contribution directly to the Program; and

(b) Within 60 days after the date of death of the participant, the surviving ~~spouse or~~ dependent:

(1) Notifies the last public employer of the deceased participant that the surviving ~~spouse or~~ dependent intends to enroll in or continue coverage by reenrolling in the Program; and

(2) Enrolls or reenrolls, as appropriate, in the Program.

5. Continued coverage provided to a surviving ~~spouse or~~ dependent who reenrolls in the Program in accordance with this section may not be changed until the next ~~enrollment~~ period ~~[that is open to all participants of the Program.]~~ *of open enrollment.*

6. If the surviving spouse *or domestic partner* has a dependent who is not covered under the Program at the time of death of the officer or employee of a participating public agency, or retired officer or employee, or acquires a dependent by marriage, adoption or birth, the dependent is not eligible for coverage or insurance.

7. A retired officer or employee who wishes to enroll or reenroll in the Program more than 60 days after his official date of retirement or total disability must comply with the requirements of NRS 287.0475.

Sec. 21. Section 5 of this regulation is hereby amended to read as follows:

1. If a participant and his spouse are granted a divorce, the participant shall, within 60 days after the date on which the decree of divorce is signed, notify the Program of the divorce and submit to the Program a copy of the decree of divorce.

2. *If a participant's domestic partnership has been terminated pursuant to the Nevada Domestic Partnership Act, which is chapter 122A of NRS, the participant shall, within 60 days after the termination of the domestic partnership, notify the Program of the termination and submit to the Program such documentation of the termination as is required pursuant to the Nevada Domestic Partnership Act.*

Sec. 22. NAC 287.037, 287.3115 and 287.3125 are hereby repealed.

Sec. 23. 1. This section and sections 1, 2, 4, 5, 7, 9, 11 to 19, inclusive, and 22 of this regulation become effective on April 20, 2010.

2. Sections 3, 6, 8, 10, 20 and 21 of this regulation become effective on July 1, 2010.

TEXT OF REPEALED SECTIONS

287.037 “Domestic partner” defined. (NRS 287.043) “Domestic partner” means a person attested to by a participant as being eligible for coverage as a dependent pursuant to NAC 287.3115.

287.3115 Dependents: Establishment and maintenance of eligibility of domestic partner of participant. (NRS 287.043)

1. To establish the eligibility of a domestic partner for coverage as a dependent, a participant must sign an affidavit on a form prescribed by the Program, which must include, without limitation:

(a) Attestations that the participant and the domestic partner:

(1) Are 18 years of age or older and are mentally competent to contract;

(2) Are in a sole committed relationship with one another;

(3) Are not married to another person;

(4) Are not related by blood;

(5) Provide each other with mutual support for the necessities of life; and

(6) Have shared a residence for not less than 6 consecutive months immediately preceding

and including the date on which the participant signs the affidavit; and

(b) Statements, to be acknowledged by the participant, that the participant is responsible for:

(1) In the event of the dissolution of the domestic partnership, notifying the Program within 30 days after the dissolution; and

(2) Any federal income tax consequences resulting from the enrollment of the domestic partner in the Program.

2. The participant shall include on the affidavit the address, dates of birth, full names and social security numbers of the participant and the domestic partner.

3. To maintain the eligibility of the domestic partner for coverage as a dependent, the participant must submit an affidavit described in this section during each period of open enrollment if the criteria set forth in paragraph (a) of subsection 1 remain applicable to the domestic partnership.

287.3125 Dependents: Terms and conditions of certain changes. (NRS 287.043)

Except during a period of open enrollment, the right to change coverage or insurance for a dependent or to add or change dependents is governed by the terms and conditions of any applicable plan, insurance policy or law.

**INFORMATIONAL STATEMENT
FOR
PROPOSED REGULATION FOR THE
PUBLIC EMPLOYEES' BENEFITS PROGRAM
LCB File No. R107-09**

The following statement is submitted for adopted amendments to Nevada Administrative Code chapter 287.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

One workshop and an adoption hearing were held. Public comment was solicited by sending notices of the workshops and the adoption hearing to all state agencies, the Nevada State Library, all Nevada county libraries, and all persons who requested these notices.

A summary of public response may be obtained from Vicki Smerdon with the Public Employees' Benefits Program at 775-684-7020 or 800-326-5496.

2. The number of persons who:

- (a) **Attended the September 3, 2009 workshop: 62**
- (b) **Attended the February 4, 2010 adoption hearing: 64**
- (c) **Testified at the September 3, 2009 workshop: 5**
- (d) **Testified at the February 4, 2010 adoption hearing: 0**
- (e) **Submitted to the agency written comments: 1**

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

See response to number 1 above.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

None

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) **Both adverse and beneficial effects; and**
- (b) **Both immediate and long-term effects.**
 - (a) No adverse or beneficial effects; and
 - (b) No immediate or long term effects.

6. The estimated cost to the agency for enforcement of the proposed regulation.

None.

7. A description of any regulations of the 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.

There are none.

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

There are none.

9. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation does not provide or involve a new fee.