

Chapter 689A of NAC

**PROPOSED TEMPORARY REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. T007-10

**NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON
PROPOSED TEMPORARY REGULATIONS**

The State of Nevada Department of Business and Industry, Division of Insurance (“Division”), (775) 687-0700, is proposing the adoption of temporary regulations pertaining to chapters 686A and 689A of the Nevada Administrative Code (“NAC”). A workshop will be held **following the conclusion of scheduled regulation hearings set for 9:30 a.m. on November 23, 2010**, at the Nevada State Health Division, 4150 Technology Way, Suite 303, Hearing Room, Carson City, Nevada 89706. Interested parties may also participate through a simultaneous video-conference conducted at the Bradley Building, 2501 East Sahara Avenue, 2nd Floor Conference Room, Las Vegas, Nevada 89104. The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed temporary regulations.¹ Please submit any written comments no later than November 16, 2010.

Child Only Policies. All carriers in Nevada have stopped issuing individual health benefit plans to children under the age of 19 in response to the recently enacted federal health care reform law which prohibits preexisting condition limitations or exclusions for these children. Carriers are concerned that insurance for children with medical conditions will be purchased for brief periods of time when medical care is needed. Establishing a fixed open enrollment period for these children will provide a level playing field for all carriers and help mitigate adverse selection risk.

The proposed temporary regulation will establish an open enrollment period during the month of January for the issuance of child only policies. Carriers offering child only policies will be required to offer coverage under a Basic or Standard health benefit plan to children under the age of 19 who apply for coverage during the open enrollment period. An individual carrier is not required to issue a policy to a child eligible for coverage as a dependent under a group health plan.

Fees For Service. The proposed temporary regulation will amend NAC 686A.330 and 686A.335 to allow an agent acting as a broker to collect fees paid by the client for the providing of services as agreed in a written contract. These fees may be in

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.

addition to or in lieu of commissions paid by the insurer.

A copy of all materials relating to the proposals may be obtained at the workshop or by contacting the Division, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, (775) 687-0704. A reasonable fee for copying may be charged.

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

Department of Business and Industry
Division of Insurance
1818 E. College Parkway, Suite 103
Carson City, NV 89706

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

Capitol Press Room
Capitol Building Basement
Carson City, NV 89710

Donald W. Reynolds Press Center
102 North Curry Street
Carson City, NV 89701

Legislative Counsel Bureau
401 South Carson Street
Carson City, NV 89701

Office of the Attorney General
100 North Carson Street
Carson City, NV 89701

Blasdel Building
209 East Musser Street
Carson City, NV 89701

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

Office of the Governor
Capitol Building
Carson City, NV 89710

Carson City Courthouse
885 East Musser Street
Carson City, NV 89701

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

Churchill County Library
553 South Main Street
Fallon, NV 89406

Clark County District Library
833 Las Vegas Boulevard North
Las Vegas, NV 89101

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

Elko County Library
720 Court Street
Elko, NV 89801

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

Eureka Branch Library
P.O. Box 293

Humboldt County Library
85 East 5th Street

Eureka, NV 89316

Winnemucca, NV 89445

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

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

Lyon County Library
20 Nevin Way
Yerington, NV 89447

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

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

Storey County Public Library
P.O. Box 14
Virginia City, NV 89440

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

Washoe County Library
P.O. Box 2151
Reno, NV 89505-2151

White Pine County Library
950 Campton Street
Ely, NV 89301

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 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or by calling no later than 5 working days prior to the hearing, (775) 687-0704.

DATED this 4th day of November, 2010.

/s/
BRETT J. BARRATT
Commissioner of Insurance

NOTICE OF INTENT TO ACT UPON TEMPORARY REGULATION

Notice of Hearing for the Adoption of Temporary Regulations of The Department of Business and Industry, Division of Insurance²

The State of Nevada Department of Business and Industry, Division of Insurance (“Division”), will hold a public hearing at **1:30 p.m. on December 14, 2010**, at the offices of the Nevada State Health Division, 4150 Technology Way, Suite 303, Hearing Room, Carson City, Nevada 89706. Interested persons may also participate through a simultaneous video-conference conducted at the Bradley Building, 2501 East Sahara Avenue, 2nd Floor Conference Room, Las Vegas, Nevada 89104. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of the regulation that pertains to chapter 689A of the Nevada Administrative Code (“NAC”).

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

1. All carriers in Nevada have stopped issuing individual health benefit plans to children under the age of 19 in response to the recently enacted federal health care reform law which prohibits preexisting condition limitations or exclusions for these children. Carriers are concerned that insurance for children with medical conditions will be purchased for brief periods of time when medical care is needed. Establishing a fixed open enrollment period for these children will provide a level playing field for all carriers and help mitigate adverse selection risk.
2. This regulation will establish an open enrollment period during the month of January for the issuance of child only policies. Carriers offering child only policies will be required to offer coverage under a Basic or Standard health benefit plan to children under the age of 19 who apply for coverage during the open enrollment period. An individual carrier is not required to issue a policy to a child eligible for coverage as a dependent under a group health plan.
3. The estimated economic effect of the regulation:

On the business which is to be regulated: The proposed regulation should have a positive economic impact for individual carriers writing child only policies by limiting their exposure to children with preexisting medical conditions.

On the public: The proposed regulation should have a positive economic impact for the public, allowing risk transfer to carriers through the purchase of insurance for children.

4. There should be no additional cost to the Division.

² 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.

5. The proposed regulation does not overlap or duplicate any other regulations of other state or local governmental agencies.
6. The proposed regulation is not required pursuant to federal law, but is a consequence of federal health care reform law.
7. Guidance from the United States Department of Health and Human Services permits individual carriers to restrict enrollment of children under the age of 19 to specific open enrollment periods to address carrier concerns over adverse selection.
8. The proposed regulation does not establish a new fee or an increase to an existing fee.
9. The proposed regulation has little or no impact on small businesses.

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 E. College Parkway, Suite 103, Carson City, Nevada 89706. **Written submissions must be received by the Division on or before November 16, 2010.** 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 temporary regulation to be adopted 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 temporary regulation to be adopted will be available at the offices of the Division, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, 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 temporary 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/register>. Copies of this notice and the proposed temporary regulation 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 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.

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Division of Insurance
1818 E. College Parkway, Suite 103
Carson City, NV 89706

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2501 East Sahara Avenue, Suite 302
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P.O. Box 1390
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P.O. Box 781
Lovelock, NV 89419

Storey County Public Library
P.O. Box 14
Virginia City, NV 89440

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P.O. Box 449
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Reno, NV 89505-2151

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950 Campton Street
Ely, NV 89301

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 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or by calling no later than five (5) working days prior to the hearing, (775) 687-0704.

DATED this 4th day of November, 2010.

/s/
BRETT J. BARRATT
Commissioner of Insurance

Chapter 689A of NAC

**PROPOSED TEMPORARY REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. T007-10

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

AUTHORITY: NRS 679B.130.

A REGULATION relating to the issuance of health benefit plan policies for children under the age of 19.

Section 1. Chapter 689A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 4, inclusive, of this temporary regulation.

Sec. 2. *Definitions:*

- 1. “Basic health benefit plan” shall have the same meaning as defined in NRS 689A.480.*
- 2. “Individual carrier” shall have the same meaning as defined in NRS 689A.550.*
- 3. “Child only policy” shall mean an individual health benefit plan which provides coverage to an individual under the age of 19. This shall not include health benefit plans that cover children under age 19 as a dependent.*
- 4. “Open enrollment” shall mean a period of time during which an individual may enroll in a health benefit plan without providing evidence of insurability as a condition of enrollment.*
- 5. “Qualifying event” shall include birth and adoption pursuant to NRS 689A.043 or court-ordered coverage as defined in NRS 689A.420(2) pursuant to NRS 689A.460.*
- 6. “Standard health benefit plan” shall have the same meaning as defined in NRS 689A.605.*

Sec. 3. 1. Individual carriers issuing child only policies on or after September 23, 2010 shall only accept applications for coverage during the open enrollment period outlined in this regulation.

2. Enrollment outside the open enrollment period shall be prohibited, except upon the occurrence of a Qualifying Event.

3. Beginning January 1, 2011, individual carriers offering child only policies shall hold an open enrollment period each January for the duration of the entire month. During this open enrollment period, all applicants under the age of 19, that are not otherwise eligible for coverage as a dependent under a group health plan providing coverage for the child's parent(s) or guardian(s), shall be offered coverage under a Basic or Standard health benefit plan without the imposition of limitations or exclusions for pre-existing health conditions.

4. Notice of the open enrollment opportunity and open enrollment dates for new applicants, as well as the opportunity to enroll due to a qualifying event, must be displayed prominently on the individual carrier's web site throughout the year.

5. Applications for coverage during the open enrollment period shall become effective on the first day of the month following the receipt of the completed application, except that if mutually agreed upon by the applicant and the individual carrier an alternative effective date may be selected.

6. Nothing contained in this regulation shall alter an applicant's ability to obtain a child only policy or be added to an existing policy, outside the open enrollment period, upon the occurrence of a qualifying event.

Sec. 4. Effective Date: Pursuant to NRS 233B.063(3), as a temporary regulation, this regulation becomes effective as of the date filed with the Secretary of State and remains in effect until November 1, 2011, unless otherwise replaced or repealed prior to that date.