

**STATE OF NEVADA
DIVISION OF INSURANCE
LIFE AND HEALTH SECTION**

Procedure and Filing Guidance for Approval of Variable Text

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LIFE AND HEALTH SECTION FILINGS
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I. General Guidelines

A. Purpose and Effective Date

The use of variable text in life insurance, annuity and health insurance policy forms is limited. Insurers should comply with the following guidelines when filing for approval of policy forms that include variable material.

The purpose of this guidance is simply to clarify and formalize the long-standing position of the life and health section of the Nevada Division of Insurance (Division) regarding the use of variable material in insurance forms. Although the basic policy regarding the use of variable material has not changed over the years, as a reflection of our sensitivity to “speed to market” issues, we have decided to make exceptions for certain common text changes and initiated a process for expedited review of certain other common text changes. The exceptions are set forth in item D of this section and the process for an expedited review is summarized in item E of this section and further detailed in section V.

B. Nevada Standards Regarding Variable Text

Variable text is only permitted if it is indicated on the filed form by brackets and all variable ranges or options, along with an explanation of when each would be used, are included in the Statement of Variability (Statement) and approved by the Division. The range of variables may be numerical values (e.g., Bonus of 1% to 5%) or the list of all possible alternative language or items. Any language not approved in the Statement of Variability cannot be used without filing the additional language for approval. Any range of numerical values and any range/list of alternate variable text must be reasonable and realistic.

The Statement of Variability must state the specific conditions under which each variable amount/item may change. For example, language such as “the company may change this item based on existing circumstances” is not acceptable. For specific language that is variable (e.g., Tax Qualified and Non Tax Qualified versions), the exact language, as it will appear on the form that is actually issued to the consumer, along with the explanation for language variability, need to be included in the Statement of Variability.

The Statement of Variability for all life, health and annuity products defines the scope of approval for policy forms and therefore needs to be submitted for approval by the Division along with any forms to which it refers. Any change in the information contained in the Statement of Variability is considered to be a change to the form to which the statement applies and requires re-filing of the form and the Statement of Variability for approval.

The procedure outlined in this document applies to all life insurance, health insurance and annuity products and to both paper and SERFF submissions.

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C. Applicable Nevada Revised Statutes

Pursuant to NRS 687B.120, all forms delivered or issued for delivery in Nevada must be filed and approved prior to use.

NRS 687B.130 stipulates the grounds for disapproval of policy forms which includes: non-compliance with Nevada law; ambiguous, misleading or deceptive clauses or provisions which may be considered to be prejudicial to the interest of the consumer; benefits not reasonable in relation to the premium charged (certain health insurance products); provisions which may encourage misrepresentation:

D. Exceptions for Certain Common Changes

The Division also recognizes the need for timely implementation of routine changes so the following items are now allowed to be denoted as variable text even though replacement text is not available.

1. Change of company or service center contact information (address, telephone number, e-mail address, internet address)
2. Fund changes for variable life insurance and variable annuity products.
3. Logo change

Changes to these items will be allowed without prior approval however, they will need to be filed with the Division on an informational basis. The relaxation of the Division's standards for the above-listed items reflects the Division's recognition of the carriers' need to have these routine changes effected in a timely manner. Please note that abuse of this policy may result in the reversal of this exception.

E. Expedited Review

The Division is sensitive to "speed to market" issues and is therefore implementing an automatic expedited review of forms to facilitate a change in officer name/title/signature for previously approved forms. The procedures for these changes are fully detailed in Section V.

F. Automatic disapproval if Statement of Variability is Not Included

If a form, which includes text denoted as variable, is submitted to the Division without a Statement of Variability then the form will be disapproved. This will require the form to be resubmitted for approval, along with any applicable filing fees. Note that, for SERFF filings, the life and health section issues an objection letter to indicate the disapproval of a filing. Therefore, any filing modifications requested by the Division may be accomplished by submitting a response letter along with the revised forms and confirmation of fee payment.

II. Submission Requirements

A. General Requirements for Submission of Statements of Variability (SOVs):

- 1) It is not necessary for the Statement of Variability to have its own form number. If you choose to give the Statement of Variability its own form number, the Division will consider it to be only for your internal use. Any form number you choose to give to the Statement of Variability must **not** appear in the lower left corner.
- 2) Variable material **must** be denoted in square brackets []. The Statement of Variability should clearly indicate that text shown within square brackets is variable.
- 3) Each instance of variable text needs to be bracketed on the form filed for review. Additionally, the Statement of Variability needs to include an explanation of the variability provided in the order that it appears on the form being filed (i.e., by page number and paragraph).
- 4) All variations appearing in actual issues of any forms must be included in the Statement of Variability. The use of any other variations would be considered to be the use of an unapproved form.
- 5) If contract language is bracketed because it will either be in or out of the coverage or other form, then an explanation of the circumstances of when it will be included needs to be provided. For example, if an optional benefit rider is bracketed on the Schedule of Benefits page of the policy form, the corresponding portion of the Statement of Variability form would explain that the rider is bracketed since it is optional. Further, the SOV will clarify if it is optional to the insured, to the policyholder, or to the insurer.
- 6) General and vague explanations, and without specific page references, are insufficient. For example, the explanation of “as necessary”, “as negotiated by the policyholder”, or “will comply with statutory requirements” are too vague. The specific conditions and circumstances under which each variable item may apply need to be explained in detail.
- 7) Ideally, a separate Statement of Variability should be submitted for each form. The form number to which the SOV applies should be indicated at the top of this statement. For example: “Statement of Variability for form: XYZ-123”. If the statement is used for more than one form, each form number should be clearly indicated at the top of the statement.
- 8) The bracketed numerical data needs to be consistent with the Actuarial Memorandum, as well as other forms (e.g., Outline of Coverage, Application, etc.) and statements.

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- 9) The Statement of Variability must contain a revision date to distinguish it from past or future versions of the Statement.
- 10) Extensive bracketing is included in some forms filings. Sometimes the bracketing is so cumbersome (such as brackets inside of brackets), that it is difficult to read it from beginning to end and understand the coverage being provided. Therefore, in such cases, it would be helpful for the insurer/company to provide each version of the variable contract. For example, the company could submit one contract that includes a set of certain benefits and exclusions, based on the plan selected by the policyholder/employer (e.g., Plan A); and submit another/second contract that includes another set of certain benefits and exclusions, based on the plan selected by the policyholder (e.g., Plan B). This will speed our review of the filing. Please note that if the bracketing is too difficult to comprehend, we may ask the insurer/company to separately submit each variation of the entire contract/policy form.
- 11) The insurer should indicate in the Statement of Variability that the company is certifying to the following:
 - a) The final form issued to the consumer will not contain brackets denoting variable text.
 - b) Any variable text included in this Statement of Variability will be effective only for future issues.
 - c) The use of variable text will be administered in a uniform and non-discriminatory manner and will not result in unfair discrimination.
 - d) Only text included in this Statement will be allowed to be used on the referenced forms received by consumers.
 - e) Any changes to variable text or permissible range of values will be submitted for approval prior to implementation.

B. Requirements for Paper Filings

- 1) Initial Submission of Statement of Variability with the Form:
 - a) The Submission Letter:
 - i. The “Re” of the submission letter should reference the Statement of Variability form, including the revision date, along with the other forms. For example, consider group term life certificate GTC123 being submitted along with the Statement of Variability which was last revised on March 31, 2008. The caption should include:
 - ii. Re: GTC123 Group Term Insurance Certificate
 - iii. GTC123 Group Term Insurance Statement of Variability (3/31/2008)

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- iv. This will allow the Division to verify that actual issues of Certificate Form GTC123 are based on the approved version of GTC123 as modified by the 3/31/2008 version of the Statement of Variability for GTC123. Any internal form number used by an insurer on the Statement of Variability will not appear on the policy forms actually issued.
 - v. The submission letter should state that the form submitted includes variable text which is denoted by brackets.
- b) Attachments:
- i. All required Certifications should reference the Statement of Variability in addition to the policy forms to which it applies.
 - ii. For example using the same example from 1(a)(i) above, the Certification of Compliance should list GTC123 and the Statement of Variability for GTC123.
- 2) Subsequent Submission of Revised Statement:
- a) Submission Letter:
- i. The “Re” of the letter should be completed as described above. Since the policy form has already been approved it would not be shown in the “Re”. The Statement of Variability, along with the new revision date, will be included in the “Re” line. To extend the example above, the following will be indicated in the reference line: Re: GTC123 Group Term Insurance Statement of Variability (01/01/2009).
 - ii. The letter must indicate the Division file number as well as the form number of the previously approved form and the revision date of the Statement of Variability corresponding to the previously approved form.
- b) Attachments:
- i. The Revised Statement should be accompanied by all required certifications as if a revision to an already approved form was being submitted.
 - ii. A red-lined/black-lined version of the Statement must be provided showing the changes or, in the alternative, the submission letter must clearly identify the changes. The company must confirm in the submission letter or the Statement that no other changes have been made.
 - iii. A copy of the form that will be modified by the revised Statement must be included. For SERFF filings, the form being modified by the Statement must be filed under the supporting documents tab rather than the forms tab if no changes are being made to the form.

3) Requirements for Electronic Filings

- a) If filing electronically, through the System for Electronic Rate and Form Filing (SERFF), the Statement of Variability should be attached to each form to which it applies under the “Forms” tab but should not be included in the count of forms filed. If one Statement of Variability is submitted for all forms filed, it should be attached to the main form under the “Forms” tab but should not be included in the count of the number of forms submitted.

4) Special Consideration for Readability Certification:

- a) NRS 687B.124 requires a Readability Certification (Flesch Score) to be included with the submission of certain forms. NRS687B.124 also requires that the forms actually issued or delivered in this state that are subject to the readability requirements achieve a minimum score of 40 on the Flesch reading ease test. As such, the required certification by an officer of your company must consider all the possible variations allowed by the Statement of Variability.
- b) This would also apply when only a revised Statement of Variability is being submitted. Therefore, a Readability Certification should be included for the affected form or an explanation why such certification is not required should be provided. For example, “the proposed revision only affects the table of values”.
- c) A Flesch reading ease test should not be performed on the Statement of Variability.

III. Permissible Variable Text

A. General

- 1) Company logos: company logos are generally allowed to be denoted as variable text. If the company logo is denoted as variable text, the Division must be notified of a change in the logo through an informational filing. Note that the company name is not allowed to be changed unless previously approved by the Division. Therefore, a logo which includes the name of the company may not be changed unless approved by the Division.
- 2) Company/Service Center Contact Information. Home office, administrative office and service office addresses, telephone numbers, e-mail addresses, and internet address may be denoted as variable text. The company is required to notify the Corporate and Financial section of the Division of Insurance if the contact information changes. Additionally, the company should submit an informational filing to the life and health section if the company or service center contact information is changed.

B. Table of Contents

- 1) In the Table of Contents portion of the policy or certificate form, only those provisions that are variable should be bracketed. Required policy provisions are not variable because they always need to be included in the insurance contract. Accordingly, it is inappropriate and not allowable to bracket such provisions in the Table of Contents. However, other provisions that are not required and may be included or excluded from the contract, could impact the corresponding page for the required provisions. That said, it is not allowable to have the entire table of contents page denoted as variable.

C. Specification or Data Pages / Schedule of Benefits Page

- 1) The form should not denote the entire specification or data page or entire sections of the specification or data page as variable. While policy-specific information may be denoted as variable, the section of the data page for inclusion of that information should not be denoted as variable.
- 2) Hypothetical data. John Doe and other information that varies by customer. The hypothetical data should be bracketed or otherwise denoted as variable. For example, “Insured – [John S. Doe]”; “age – [35]”. The Statement of Variability should clearly indicate that this information varies with each consumer.
- 3) Current interest rate. The Statement of Variability must reflect that this rate will change but it is not necessary to provide a numerical range.
- 4) Guaranteed Periods. The Statement of Variability will need to set forth all the guaranteed periods (e.g., 1-year, 3-year, 5-year) that could appear on the specification or data page.

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- 5) Variable loan interest rate. The Statement of Variability will need to indicate that the rate will change in accordance with the language in the policy loan provision.
- 6) Persistency enhancement (bonus) amount and duration. The Statement of Variability will need to set forth the reasonable ranges for the amount and the durations that will be made available. Note that a zero enhancement/bonus is not considered to be in the reasonable range.
- 7) No-lapse feature. The Statement of Variability will need to indicate when the feature will appear or how and when terms related to the feature such as number of years will change.
- 8) Death Benefit Options. The Statement of Variability will need to indicate all the death benefit options that are available. The Statement of Variability will need to indicate when each of the options will appear.
- 9) Surrender Charge Schedules. The Statement of Variability for annuity contracts will need to set forth the complete surrender charge schedules that may appear in the policy form and explain when each would be used. For example, offering the applicant the choice between a 5 year and a 7 year surrender charge schedule.
- 10) For life insurance policies, surrender charges that vary due to such things as issue and rate class, do not need a complete set of surrender charges to appear in the Statement of Variability. Instead the Statement should indicate the basis for the variation (e.g. issue Age, underwriting class). However when the applicant is given the choice between different surrender charge schedules, then this must be reflected in Statement of Variability.
- 11) The payout option, if elected at time of application.
- 12) The following numerical items may be denoted as variable subject to the Statement of Variability providing the minimum and maximum amounts; however, the minimum and maximum amounts, if stated in the forms, may not be denoted as variable. **Please ensure that any range of values does not violate Nevada law.** In other words, a minimum value should not be less than allowed by Nevada law and a maximum value should not be higher than allowed by Nevada law.
 - a) Mortality and expense charges. For life insurance policies, mortality and expense charges that vary due to such things as issue and rate class, do not need a complete set of to appear in the Statement of Variability. Instead the Statement should indicate the basis for the variation (e.g. issue age, underwriting class).
 - b) Contract or policy credits
 - c) Rider charges
 - d) Bonus amounts

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- e) DCA enhancement amount
- f) Contract or policy fees
- g) Number of permissible transfers
- h) Amount of permissible increases or decreases in the face amount of a life insurance policy
- i) Number of partial withdrawals
- j) Partial withdrawal amounts
- k) Minimum and maximum premium amounts or contributions permissible under a policy or contract.
- l) Issue ages
- m) Benefit percentages for guaranteed living benefits
- n) Deductibles
- o) Co-payments
- p) Coinsurance
- q) Out-of-pocket amounts
- r) Annual maximums, lifetime maximums
- s) Benefit limits/maximums (e.g., per visit,
- t) Per event (ambulance service)
- u) Per item (orthotics)
- v) Number of days or number of treatments.
- w) Premium Guidelines Test/Cash Value Accumulation Test. Only one or the other is permitted to be on any one form based on consumer choice. The Statement of Variability should indicate that these are the only two available choices and is based solely on the choice of the consumer.

D. Applications

- 1) Types of insurance. The Statement of Variability will need to set forth all the policies or contracts that could appear on the application form and explain when they will appear (e.g., Ten Year Term policy will appear only for direct response market).
- 2) Amounts of insurance. The Statement of Variability will need to set forth all the amounts or range of amounts that could appear on the form and explain when they will appear.
- 3) Guaranteed Periods. See guidance in Specification or Data Page section.
- 4) Riders or other features. The Statement of Variability will need to set forth all the riders currently available that could appear on the application and explain when they will appear. The Statement of Variability will need to indicate that any addition or deletion of riders will be reflected in a revised Statement of Variability submitted for approval.
- 5) Choice of Payment Methods.
- 6) Credit Card Options.
- 7) Special disclosure language for features such as bonuses. The Statement of Variability will need to indicate that this language will appear only when the bonus is offered.
- 8) State-specific disclosures. This may be variable except if the language pertains to the State of Nevada. Nevada-specific language cannot be denoted as variable.
- 9) List of investment sub accounts / investment funds may be denoted as variable text even though the replacement funds are not yet known if the following procedure is followed: 1) the initial filing should include a certification by an officer of the company that the change will not result in any significant modification in the risk profile of the funds offered. The certification should also describe the process for effecting a change in funds and state that any changes will be approved at the appropriate authority level at the company. 2) The Division must be notified of any fund changes through an informational filing. The informational filing should also include a statement explaining why the change was made and whether any of the replacement funds are successor funds. The statement should also indicate if this change will result in any significant modification in the risk profile of the funds offered. It is also expected that the change in funds was approved at the appropriate authority level at the company and a statement to that effect should be included in the filing.

IV. Impermissible Variable Text

- 1) Company name. Since all Nevada insurance forms have to be filed separately for each specific insurer/company name, the insurer name cannot be bracketed on any forms. Even for an application form, the insurer name cannot be bracketed. However, all applicable insurers, or legally related companies can be listed on the application with boxes next to the name for checking/selection. Any change in the company name may be filed on an expedited basis as detailed in section V.
- 2) Officer name, title and signature. The officer name, title and signature may not be denoted as variable text. If a change is needed, the company may submit an amendatory endorsement filing to the life and health section for approval on an expedited basis as detailed in section V.
- 3) Marketing, product or plan names.
- 4) Guaranteed minimum interest rates for annuities and life insurance.
- 5) Guaranteed maximum charges or expenses.
- 6) The basis for guaranteed maximum cost of insurance rates
- 7) The C.S.O Mortality Table and related information
- 8) The form number in the lower left hand corner of the policy form.
- 9) Certain plans of insurance for the policy form, e.g., a whole life plan cannot be bracketed so that the policy can be used for a term insurance plan. However, you can bracket plans within a whole life policy, e.g., Life Paid Up at 85, Life Paid Up at 95, Whole Life as long as a separate set of schedule pages reflecting each available plan with each schedule page bearing an unique form number is submitted for approval. Term policies which offer a choice of term plans such as 10 year term, 15 year term or 20 year term require a separate set of schedule pages reflecting each available plan with each schedule page bearing a unique form number. Similarly, an HMO plan policy cannot be bracketed so that it may be used for a PPO or POS plan.
- 10) Indices used for variable or indexed products.
- 11) Tables of guaranteed values. For life insurance policies, guaranteed values that vary due to such things as issue and rate class, do not need a complete set of guaranteed values to appear in the Statement of Variability. Instead the Statement should indicate the basis for the variation (e.g. issue Age, underwriting class).

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- 12) Withdrawal/Surrender Charges or Deferred Contingent Sales Charges unless there are alternate schedules which are specifically stated in the Statement of Variability.
- 13) Basis for calculating minimum values – mortality table and interest rates.
- 14) Maximum caps for variable products.
- 15) Participation rate for indexed products unless the range of values is stated. However, the minimum and maximum values may not be denoted as variable text.
- 16) All other variations not addressed herein, unless otherwise expressly permitted by the Division.

V. Expedited Review for Certain Changes that are not allowed to be variable

A. General Guidelines for Expedited filings:

The following changes may be filed with the Division and will be automatically reviewed on an expedited basis if the procedures outlined below are followed:

- 1) Change in company name.
- 2) Change in the officer signature

The above changes may be accomplished by filing an amendatory endorsement or rider which indicates the changed information along with the effective date of the change and a statement regarding the policies that will be affected by this change – future issues only, all current and future issues or current policyholders only.

Uniform transmittal form

The uniform transmittal form which accompanies all filings should be completed with the following modifications: item 5 – Request filing Mode: the “Review and Approval” box should be checked as well as the “Other” box with one of the following explanations:

- Expedited – Officer Change
- Expedited – Company Name Change Only

All related filing fees and required documentation must be provided. If the required filing fees or documentation is not provided, the filing will be considered incomplete and will be disapproved and will not be reviewed until all required items are provided. If other changes are being made, the filing MAY NOT be submitted as expedited. If the filing is submitted as expedited and it contains changes other than those listed above, the filing will be disapproved and closed and the company must submit a new filing.

Certification

A certification must be made by a signing officer of the company that the filing includes one or more of the following types of changes from a previously approved form and that no other changes are included:

- Officer Change, or
- Company Name

The Division intends to review all expedited filings within 10 working days of receipt.

B. Additional Instructions for SERFF Filings

The **filing type** must be specified as “**Expedited**” and the filing description must describe exactly what is changing. For example, for an officer change, the filing type should be indicated as “Expedited” and the description should state – “Officer Change Only”.