



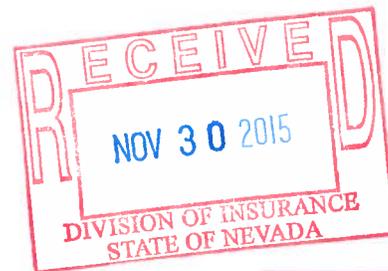
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November 23, 2015

Ms. Amy Parks, Esq.  
Acting Commissioner of Insurance  
Division of Insurance, Department of Business and Industry  
1818 East College Parkway, Suite 103  
Carson City, Nevada 89706

RE: LCB File No. R049-14

Dear Ms. Parks:



The Nevada State Medical Association (NSMA) writes this letter pursuant to NRS 233B.064 regarding LCB File No. R049-14.

Throughout the regulatory process, NSMA, the Nevada Osteopathic Medical Association and the associations of various specialty groups of physicians have consistently submitted letters of concern at each workshop held by the staff of the Division of Insurance (“DOI”) and have had numerous conversations with DOI staff to ensure that you are aware of those concerns. As the regulations have developed, however, NSMA remains concerned that our collective comments have gone unnoticed and unaddressed.

As you know, pursuant to NRS 233B.064, either before or within 30 days after the adoption of a regulation, an interested person may request that an agency “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 letter is intended, pursuant to the provisions of NRS 233B.064, to request such a statement, including the Commissioner’s reasons for overruling the concerns and considerations expressed in this letter and the previous letters we submitted.

Although this letter is a formal request that all of our concerns be reviewed under NRS 233B.064, we specifically highlight two of those concerns as follows:

**I. The Regulation Violates the Nevada Administrative Procedures Act**

First, the regulation violates the Nevada Administrative Procedures Act because it purports to authorize the adoption of an annual list in violation of Chapter 233B of NRS by denying the public an opportunity for meaningful comment and illegally circumventing oversight by the Legislative Commission. The Nevada Administrative Procedures Act, codified at Chapter 233B of Nevada Revised Statutes requires certain

safeguards to ensure that there is public input into how the laws passed by the legislature should be implemented. Chapter 233B requires a 30 day notice, at least one workshop, a hearing with public comment, review by the Legislative Counsel Bureau and Legislative Commission approval. This process enables agencies to better understand the implications of a proposed regulation on those it affects and to more effectively implement meaningful regulations.

The proposed Regulation intends to adopt a new procedure whereby the agency will annually enact substantive standards of general applicability through the annual list as outlined in section 18 of the latest version of R049-14RP1. This list itself is a regulation within the definition of NRS 233B.038 and requires compliance with the procedures outlined in Chapter 233B for adoption. The regulation does not provide for such safeguards. Instead, the process provides only for a 20 day comment period and fails to provide the requisite 30 day notice, fails to require a hearing, and fails to permit public input and transparency in adopting an annual list for network adequacy compliance. In addition, the regulation removes review of the substantive provisions adopted via the annual list from the oversight of the Legislative Commission or Subcommittee to Review Regulations, in violation of NRS 233B.067.

For these reasons, NSMA and others have continuously encouraged the rejection of this regulation based on its numerous violations of chapter 233B of NRS. We strenuously object to this process and the provisions of section 18 of LCB File No. R049-14RP1, and request that the Commissioner provide its reasons for overruling the consideration urged against this provision.

**II. The Regulation Fails to Provide a Clear Process for Corrective Action Plan and Any Accountability Measures.**

Second, the Regulation fails to provide a clear process for a corrective action plan and any meaningful accountability measures.

Section 26 of R049-14RP1 provides for the submission of a corrective action plan in the event that a network becomes inadequate during a plan year. However, the regulation fails to provide a clear process for review by the Commissioner once the plan is submitted. The regulation does not allow the Commissioner to approve nor reject the corrective action plan, nor does it provide for any substantive ongoing monitoring during the implementation of the plan.

In addition, this section fails to provide an opportunity for a patient who is harmed by an inadequate plan to have his or her grievances addressed or prescribe the consequences to a carrier for failure to carry out or complete the corrective action plan.

We reiterate our strong objection to the regulation as written. A clear process must be adopted. It must include provision for strong oversight and accountability measures. If it is a long term plan, then there should be measurable steps along the way to monitor patient impact.

This section is one of the most important provisions of this regulation to ensure that patients receive the coverage and care that they have paid a premium to receive. Without a more transparent process and patient input, this regulation should not be adopted. The NSMA requests that the Commissioner provide its reasons for overruling the consideration urged against this provision.

In addition to the two major objections mentioned in this letter, the NSMA has raised several other objections

throughout the nearly eighteen (18) month process of adopting this regulation. The NSMA has attended the workshops and hearings to express these concerns on the public record, as well as submitted written letters for staff review. We respectfully request that the Commissioner provide its reasons for overruling those considerations urged against the adoption of this regulation. For your convenience, those letters are enclosed herein.

Thank you for your attention to this very important matter. The NSMA remains committed to working with you throughout the regulatory process on this and other matters. We look forward to your response.

Sincerely,



Tomas Hinojosa, MD  
President  
Nevada State Medical Association



Catherine M. O'Mara, JD  
Executive Director  
Nevada State Medical Association

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