

**NOTICE OF INTENT TO ACT UPON REGULATION  
AND  
HEARING AGENDA**

Notice of Hearing for the Adoption, Amendment or Repeal of Regulations of  
The Department of Business and Industry, Division of Insurance

The State of Nevada, Department of Business and Industry, Division of Insurance (“Division”), (775) 687-0700, will hold a public hearing at 1:30 p.m., on August 15, 2018, in the 1<sup>st</sup> Floor Hearing Room, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706. Interested persons may also participate through a simultaneous videoconference conducted in the 4<sup>th</sup> Floor Nevada Room at the Nevada State Business Center/Division of Insurance, 3300 West Sahara Avenue, Suite 275, Las Vegas, Nevada 89102. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment or repeal of regulations pertaining to chapter 686A of the Nevada Administrative Code (“NAC”).

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

**LCB File No. R001-18. Producer Fees.** A REGULATION relating to insurance; requiring certain information to be included in certain agreements for consultation or related advice; requiring a copy of certain agreements for consultation or related advice to be made available for audit; authorizing certain persons to charge and collect a fee for providing consultation or related advice concerning individual health benefit plans; requiring an agreement for consultation or related advice concerning individual health benefit plans to contain certain information; revising references to insurance agents and brokers; and providing other matters properly relating thereto.

(1) Why is the regulation necessary and what is its purpose?

*The 2017 Legislature passed SB 209, which was signed into law by the Governor on June 12, 2017. That bill amended NRS 686A.230, by allowing the Commissioner to adopt regulations for the charging and collecting of fees for consultation and advice on individual life, health and annuity policies. In 2016, the large majority of carriers operating in Nevada either eliminated paying commissions or dramatically reduced the amount of compensation being paid to producers for individual health benefit plans. Producers do play an important role in providing guidance and advice to consumers, and the dramatic change in compensation impacted the number of producers willing to participate in the Nevada individual health market. The ability to charge a fee for consultation or related advice in individual health benefit plans is intended to keep producers in the market, by allowing them to charge an optional fee for their consultation and other services provided to willing consumers.*

(2) What are the terms or substance of the proposed regulation?

*The elimination or dramatic reduction in the compensation paid to producers in Nevada’s individual health insurance market created a reduced incentive for producers to sell or service those*

*types of policies. This regulation is intended to allow producers to charge a fee to provide consultation or related advice about an individual health benefit plan, and it also requires that additional disclosures be included in the written agreement with their client. Additional disclosures that are being added include listing the producer's state and national producer license numbers, whether fees may be negotiated, whether fees are fully earned, whether the producer is certified by the Health Insurance Exchange, and whether the producer is covered under a policy of professional liability insurance. This regulation also adds the requirement of a disclosure notice to inform consumers that if a policy of insurance is purchased, the producer may be receiving additional compensation from the insurance carrier, in addition to the consultation fee; and, that premium subsidies offered by the federal government are only available on policies sold through the Exchange.*

(3) What is the anticipated impact of the regulation on the problem(s)?

*The number of Nevada producers willing to work in the individual health insurance market is expected to increase with the ability of producers to charge fees for consultation and other services concerning individual health benefit plans. Greater consumer protections will result from an increase in consumer awareness provided by the required disclosures contained in the written agreement.*

(4) Do other regulations address the same problem(s)?

*There are no other regulations that address the ability for producers to charge fees for consultation or other services in the state's individual health insurance market.*

(5) Are alternate forms of regulation sufficient to address the problem(s)?

*There are no alternative forms of regulation that would give producers incentives to remain in Nevada's individual health insurance market.*

(6) What value does the regulation have to the public?

*This regulation is intended to increase the number of Nevada insurance producers who are actively working and providing advice to consumers in the individual health insurance market. It will also increase consumer knowledge and protections through the required disclosures that must be included in the written fee for service agreement.*

(7) What is the anticipated economic benefit of the regulation?

a. Public

1. Immediate: *This regulation should increase the opportunity for consumers to be advised on the purchase of their family's health insurance policy. This should help consumers select proper deductibles, co-insurance, premiums, and formularies to help protect their family's assets.*

2. Long Term: *This regulation should increase the opportunity for consumers to be advised on the purchase of their family's health insurance policy. This should*

*help consumers select proper deductibles, co-insurance, premiums, and formularies to help protect their family's assets.*

- b. Insurance Business
  - 1. Immediate: *This regulation will increase the amount of potential income for producers working in the individual health insurance market in this state.*
  - 2. Long Term: *This regulation will increase the amount of potential income for producers working in the individual health insurance market in this state.*
- c. Small Businesses
  - 1. Immediate: *None.*
  - 2. Long Term: *None.*
- d. Small Communities
  - 1. Immediate: *None.*
  - 2. Long Term: *None.*
- e. Government Entities
  - 1. Immediate: *None.*
  - 2. Long Term: *None.*

(8) What is the anticipated adverse impact, if any?

- a. Public
  - 1. Immediate: *Consumers who choose to enter into an agreement with a producer for consultation or advice on individual health benefit plans will be paying for services that, historically, were included in the premiums they paid.*
  - 2. Long Term: *Consumers who choose to enter into an agreement with a producer for consultation or advice on individual health benefit plans will be paying for services that, historically, were included in the premiums they paid.*
- b. Insurance Business
  - 1. Immediate: *None.*
  - 2. Long Term: *None.*
- c. Small Businesses
  - 1. Immediate: *None.*
  - 2. Long Term: *None.*
- d. Small Communities
  - 1. Immediate: *None.*
  - 2. Long Term: *None.*
- e. Government Entities
  - 1. Immediate: *None.*
  - 2. Long Term: *None.*

- (9) What is the anticipated cost of the regulation, both direct and indirect?
- a. Enactment: *The Division does not anticipate any cost to enact this regulation.*
  - b. Enforcement: *Nevada producers are currently able to offer a fee for service agreement for consultation or related advice about group life, health and annuity products. This has not increased the cost of enforcement, so the Division expects any increased activity due to enforcement of this new regulation to be absorbed through current staffing.*
  - c. Compliance: *The Division does not expect an increased cost of compliance due to this regulation.*

- (10) Does the regulation establish a new fee or increase an existing fee?

*This new regulation does not create a new state fee or increase an existing fee.*

- (11) Provide a statement which identifies the methods used by the agency in determining the impact of the proposed regulation on a small business, prepared pursuant to subsection 3 of NRS 233B.0608.

*See the accompanying Small Business Impact Statement.*

- (12) Provide a description of any regulations of other state or local governmental 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, state the name of the regulating federal agency.

*This regulation is not anticipated to overlap nor duplicate any existing state or federal regulation.*

- (13) If the regulation is required pursuant to federal law, provide a citation and description of the federal law.

*Not applicable.*

- (14) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, provide a summary of such provisions.

*Not applicable.*

Persons wishing to comment upon the proposed actions 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 East College Parkway, Suite 103, Carson City, Nevada 89706. **Written submissions must be received by the Division on or before July 26, 2018.** 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 regulation to be adopted, amended or repealed will be on file at the State Library, 100 North Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation will be available at the offices of the Division, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706, and 3300 West Sahara Avenue, Suite 275, Las Vegas, Nevada 89102, 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 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://leg.state.nv.us/register/>. Copies of this notice and the proposed regulation will 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.

Notice of the hearing was provided via electronic means to all persons on the agency's e-mail list for administrative regulations, and this Notice of Intent to Act Upon Regulation was posted to the agency's Internet Web site at <http://doi.nv.gov/> and was provided to or posted at the following locations:

Nevada Division of Insurance  
1818 East College Parkway, Suite 103  
Carson City, Nevada 89706

Nevada Division of Insurance  
3300 West Sahara Avenue, Suite 275  
Las Vegas, Nevada 89102

Legislative Building  
401 South Carson Street  
Carson City, Nevada 89701

Nevada State Business Center  
3300 West Sahara Avenue  
Las Vegas, Nevada 89102

Blasdel Building  
209 East Musser Street  
Carson City, Nevada 89701

Grant Sawyer Building  
555 East Washington Avenue  
Las Vegas, Nevada 89101

Capitol Building Main Floor  
101 North Carson Street  
Carson City, Nevada 89701

Nevada Department of Employment,  
Training and Rehabilitation  
2800 E. Saint Louis Avenue  
Las Vegas, NV 89104

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

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

Churchill County Library  
553 South Main Street  
Fallon, Nevada 89406

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

Elko County Library  
720 Court Street  
Elko, Nevada 89801

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

Eureka Branch Library  
P.O. Box 293  
Eureka, Nevada 89316

Humboldt County Library  
85 East 5th Street  
Winnemucca, Nevada 89445

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

Las Vegas-Clark County Library District  
7060 W. Windmill Lane  
Las Vegas, NV 89113

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

Lyon County Library  
20 Nevin Way  
Yerington, Nevada 89447

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

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

Storey County Clerk  
P.O. Drawer D  
Virginia City, Nevada 89440

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

Washoe County/Downtown Reno Library  
P.O. Box 2151  
Reno, Nevada 89505-2151

White Pine County Library  
950 Campton Street  
Ely, Nevada 89301

Members of the public who would like additional information about the proposed regulation may contact Susan Bell, Legal Secretary, at (775) 687-0704, or via e-mail to [suebell@doi.nv.gov](mailto:suebell@doi.nv.gov).

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, no later than five (5) working days before the hearing: 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or [suebell@doi.nv.gov](mailto:suebell@doi.nv.gov).

DATED this 12<sup>th</sup> day of July, 2018.

  
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BARBARA D. RICHARDSON  
Commissioner of Insurance

## **HEARING AGENDA**

The State of Nevada, Department of Business and Industry, Division of Insurance

**August 15, 2018 • 1:30 p.m.**

**Location of Hearing:**

Nevada Division of Insurance  
1818 E. College Pkwy., 1<sup>st</sup> Floor Hearing Room  
Carson City, NV 89706  
(Division Offices located in Suite 103)

**Available via Videoconference at:**

Nevada Division of Insurance  
3300 W. Sahara Ave., 4<sup>th</sup> Floor Nevada Room  
Las Vegas, NV 89102  
(Division Offices located in Suite 275)

1. **Open Hearing: R001-18.**
2. **Presentation, Discussion and Adoption of Proposed Regulation. (For Possible Action)**

**LCB File No. R001-18. Producer Fees.** A REGULATION relating to insurance; requiring certain information to be included in certain agreements for consultation or related advice; requiring a copy of certain agreements for consultation or related advice to be made available for audit; authorizing certain persons to charge and collect a fee for providing consultation or related advice concerning individual health benefit plans; requiring an agreement for consultation or related advice concerning individual health benefit plans to contain certain information; revising references to insurance agents and brokers; and providing other matters properly relating thereto.

3. **Public Comment.**
4. **Close Hearing: R001-18.**
5. **Adjourn.**

Supporting public material for this hearing may be requested from Susan Bell, Legal Secretary, Nevada Division of Insurance, 1818 E. College Parkway, Carson City, Nevada 89706, (775) 687-0704, or [suebell@doi.nv.gov](mailto:suebell@doi.nv.gov).

Note: Any agenda item may be taken out of order; items may be combined for consideration by the public body; items may be pulled or removed from the agenda at any time; and, discussion relating to an item may be delayed or continued at any time. The Hearing Officer, within his/her discretion, may allow for public comment on individual agenda items. Public comment may be limited to three minutes per speaker.

Members of the public are encouraged to submit written comments for the record.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify the Commissioner's secretary, in writing, no later than five (5) working days before the hearing: 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or [suebell@doi.nv.gov](mailto:suebell@doi.nv.gov).

**NOTICES FOR THIS HEARING HAVE BEEN POSTED IN ACCORDANCE WITH NRS 241 AT THE FOLLOWING LOCATIONS:**

Nevada Division of Insurance, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706  
Nevada Division of Insurance, 3300 W. Sahara Avenue, Suite 275, Las Vegas, Nevada 89102  
Nevada State Business Center, 3300 W. Sahara Avenue, Las Vegas, Nevada 89102  
Nevada State Legislative Building, 401 S. Carson Street, Carson City, Nevada 89701  
Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas, Nevada 89101  
Blasdel State Office Building, 209 E. Musser Street, Carson City, Nevada 89701  
Nevada State Capitol, 101 N. Carson Street, Carson City, Nevada 89701  
Nevada Dept. of Employment, Training and Rehabilitation, 2800 E. Saint Louis Avenue, Las Vegas, Nevada 89104  
The State of Nevada Website ([www.nv.gov](http://www.nv.gov))  
The Nevada State Legislature Website ([www.leg.state.nv.us](http://www.leg.state.nv.us))  
The Nevada Division of Insurance Website ([www.doi.nv.gov](http://www.doi.nv.gov))



**REVISED PROPOSED REGULATION OF  
THE COMMISSIONER OF INSURANCE**

**LCB File No. R001-18**

July 11, 2018

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

AUTHORITY: §§1 and 3, NRS 679B.130, 686A.015 and 686A.230; §§2 and 4, NRS 679B.130 and 686A.015.

A REGULATION relating to insurance; requiring certain information to be included in certain agreements for consultation or related advice; requiring a copy of certain agreements for consultation or related advice to be made available for audit; authorizing certain persons to charge and collect a fee for providing consultation or related advice concerning individual health benefit plans; requiring an agreement for consultation or related advice concerning individual health benefit plans to contain certain information; revising references to insurance agents and brokers; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the Commissioner of Insurance to adopt reasonable regulations for the administration of any provision of the Nevada Insurance Code. (NRS 679B.130) Existing law further sets forth that the Commissioner has exclusive jurisdiction in regulating trade practices in the business of insurance in this State. (NRS 686A.015)

Existing law authorizes the Commissioner to adopt regulations to allow the charging and collecting of a fee by an insurance broker, consultant or financial planner for consultation or related advice on the purchase of individual or group life or health insurance or an individual or group annuity, whether or not such consultation or related advice results in the purchase of a policy of insurance or annuity. (NRS 686A.230, as amended by section 11 of Senate Bill No. 209, chapter 560, Statutes of Nevada 2017, at page 4004) Existing regulations require an agreement for consultation or related advice which is entered into by a financial planner, life or health insurance agent or broker, or insurance consultant to: (1) be in writing; and (2) contain certain information. (NAC 686A.330) **Section 3** of this regulation requires an agreement for consultation or related advice also to contain the name and address of the client or prospective client. Existing regulations additionally require each client or prospective client of a financial

planner, life or health insurance agent or broker or insurance consultant to be provided with a copy of the agreement. (NAC 686A.330) **Section 3** further requires a financial planner, producer of insurance or insurance consultant to retain a copy of the agreement and make such a copy available for audit by the Division of Insurance of the Department of Business and Industry.

Existing regulations authorize a financial planner, life or health insurance agent or broker or insurance consultant to charge a fee for providing consultation or related advice concerning: (1) group life or group annuity products; and (2) group health products. (NAC 686A.330) **Section 3** authorizes a financial planner, life or health insurance agent or broker or insurance consultant to charge a fee for providing consultation or related advice concerning certain individual health benefit plans. **Section 1** of this regulation requires an agreement for consultation or related advice concerning individual health benefit plans to contain certain information in addition to the information required by **section 3**. **Section 2** of this regulation makes conforming changes by defining the term “individual health benefit plan” and amending the definition for “health insurance” to include individual or group health insurance.

Existing law replaces various references to insurance agents and brokers with the term “producer of insurance.” (Sections 15, 21, 26, 27, 29-32, 164 and 165 of Assembly Bill No. 83, chapter 376, Statutes of Nevada 2017, at page 2323) **Sections 2 and 3** make conforming changes by replacing “agent or broker” with “producer of insurance.”

**Section 4** of this regulation makes conforming changes.

**Section 1.** Chapter 686A of NAC is hereby amended by adding thereto a new section to read as follows:

*1. If a financial planner, producer of insurance or insurance consultant charges a fee pursuant to paragraph (c) of subsection 3 of NAC 686A.330, the agreement for consultation or related advice must contain, in addition to the information required pursuant to subsection 1 of NAC 686A.330:*

*(a) The number of the license issued by the Division, or the identification number issued by the National Insurance Producer Registry, to the financial planner, producer of insurance or insurance consultant.*

*(b) A statement of whether the fee charged pursuant to paragraph (c) of subsection 3 of NAC 686A.330 is refundable pro rata. If the fee is not refundable pro rata, a statement explaining that the fee is fully earned at the completion of the consultation or related advice and is not refundable.*

*(c) The name of any health insurance carrier appointment.*

*(d) A statement of whether the financial planner, producer of insurance or insurance consultant is certified by the Silver State Health Insurance Exchange.*

*(e) A statement of whether the financial planner, producer of insurance or insurance consultant currently maintains insurance covering liability for errors and omissions.*

*(f) A disclosure notice which contains the following language:*

*The Affordable Care Act currently provides premium subsidies to those meeting the eligibility criteria. Premium subsidies are only available through policies offered on the Silver State Health Insurance Exchange.*

*If a policy of insurance offered through an individual health benefit plan is purchased through an insurance carrier of which the financial planner, life or health insurance agent or broker or insurance consultant is appointed to represent, the financial planner, life or health insurance agent or broker or insurance consultant may receive compensation or commission in addition to the fee that may be charged by a financial planner, life or health insurance agent or broker or insurance consultant.*

*The amount of compensation or commission typically varies by insurance carrier.*

*(g) The telephone numbers of the Silver State Health Insurance Exchange, (855) 768-5465, and the Nevada Division of Insurance, (888) 872-3234.*

*(h) The following statement that must be signed and dated by the client or prospective client:*

***CLIENT OR PROSPECTIVE CLIENT ATTESTATION***

*By signing below, I attest that I have reviewed the information provided in this disclosure and have received a copy of this form.*

*(i) The following statement that must be signed and dated by the financial planner, producer of insurance or insurance consultant:*

***FINANCIAL PLANNER, PRODUCER OF INSURANCE OR INSURANCE CONSULTANT ATTESTATION***

*By signing below, I attest that I have disclosed all relevant facts concerning the services to be provided and the fees, charges or other remuneration that will be charged or received for providing the consultation or related advice described.*

*2. As used in this section, “health insurance carrier appointment” means an appointment by an insurance carrier that:*

*(a) Is filed with the Division; and*

*(b) Lists the producers of insurance that are authorized to represent the insurance carrier.*

**Sec. 2.** NAC 686A.320 is hereby amended to read as follows:

686A.320 As used in NAC 686A.320 to 686A.340, inclusive, *and section 1 of this regulation*, unless the context otherwise requires:

1. “Agent” has the meaning ascribed to it in NRS 683A.321.

2. “Financial planner” means ~~an agent or broker~~ *a producer of insurance* who has successfully completed a course of instruction required for designation as a financial planner by a recognized professional association of financial planners.

3. “Health insurance” includes any:

(a) *Individual health insurance or group health insurance provided pursuant to chapter 689A or 689B of NRS;*

(b) Contract for hospital, medical or dental services entered into pursuant to chapter 695B of NRS;

~~(b)~~ (c) Health care plan provided pursuant to chapter 695C of NRS;

~~(e)~~ (d) Plan for dental care provided pursuant to chapter 695D of NRS; or

~~(d)~~ (e) Plan for prepaid limited health service provided pursuant to chapter 695F of NRS.

4. *“Individual health benefit plan” has the meaning ascribed to it in NRS 689A.555.*

**Sec. 3.** NAC 686A.330 is hereby amended to read as follows:

686A.330 1. Any agreement for consultation or related advice which is entered into by a financial planner, ~~life or health insurance agent or broker,~~ *producer of insurance* or insurance consultant must be in writing and must contain:

(a) *The name and address of the client or prospective client seeking the consultation or related advice;*

(b) The name, ~~and~~ address, *telephone number and electronic mail address* of the financial planner, ~~life or health insurance agent or broker,~~ *producer of insurance* or insurance consultant;

~~{(b) The}~~ (c) *If applicable, the name and address of any person or entity licensed pursuant to title 57 of NRS which ~~{he}~~ the financial planner, producer of insurance or ~~{she}~~ insurance consultant represents;*

~~{(e)}~~ (d) *A description of any license ~~{he}~~ the financial planner, producer of insurance or ~~{she}~~ insurance consultant holds;*

~~{(d)}~~ (e) *A description of ~~{the}~~ any fee to be charged and the services to be provided under the agreement;*

~~{(e)}~~ (f) *A provision allowing the client, without penalty, to rescind the agreement within 10 days after it is entered into; and*

~~{(f)}~~ (g) *A statement of whether the financial planner ~~{or life or health insurance agent or broker}~~, producer of insurance or insurance consultant is to receive any commission or other compensation for services in addition to ~~{the}~~ any fee paid by the client.*

2. ~~{Each}~~ *A financial planner, producer of insurance or insurance consultant must:*

(a) *Provide each client or prospective client of ~~{a}~~ the financial planner, ~~{life or health insurance agent or broker,}~~ producer of insurance or insurance consultant ~~{must be provided}~~ with a copy of ~~{the}~~ each agreement ~~{+}~~ entered into in accordance with this section or section 1 of this regulation; and*

(b) *Retain a copy of each agreement entered into in accordance with this section or section 1 of this regulation and make such a copy available for audit by the Division.*

3. *A financial planner, life or health insurance agent or broker, or insurance consultant shall not charge a fee pursuant to this section except with respect to:*

(a) Group life or group annuity products provided pursuant to chapter 688A or 688B of NRS;

~~and~~

(b) Group health products provided pursuant to chapter 689B of NRS ~~H~~; and

(c) *Individual health benefit plans provided pursuant to chapter 689A or 695C of NRS.*

**Sec. 4.** NAC 686A.340 is hereby amended to read as follows:

686A.340 Any commission received by a financial planner, agent or broker *or producer of insurance pursuant to NAC 686A.320 to 686A.340, inclusive, and section 1 of this regulation* for services related to the sale of insurance shall be deemed a premium for purposes of the tax imposed by chapter 680B of NRS.

**STATE OF NEVADA  
DEPARTMENT OF BUSINESS & INDUSTRY  
DIVISION OF INSURANCE**

**Determination of Necessity - Small Business Impact Statement  
NRS 233B.0608(1)**

Producer Fees Regulation

This regulation proposes to expand the ability of producers to charge fees for consultation or related advice for individual health benefit plans, and to provide additional disclosures that are required to be included in the written agreements between the producer and his or her prospective client.

EFFECTIVE DATE OF REGULATION:  
Upon filing with the Nevada Secretary of State

1. **BACKGROUND.**

The 2017 Legislature passed SB 209, which was signed into law by the Governor on June 12, 2017. That bill amended NRS 686A.230 by allowing the Commissioner to adopt regulations for the charging and collecting of fees for consultation and advice on individual life, health and annuity policies. In 2016, the large majority of carriers operating in Nevada either eliminated paying commissions or dramatically reduced the amount of compensation being paid to producers for the sales of individual health benefit plans. Producers do play an important role in providing guidance and advice to consumers, and the dramatic change in compensation impacted the number of producers willing to participate in Nevada's individual health market. This proposed regulation is intended to keep producers in the Nevada market, by allowing them to charge a fee for their consultation and other service provided to willing consumers. A large number of disclosures are to be included as part of the required written agreement to add necessary consumer protections and information related to the Nevada health insurance market.

2. **DESCRIPTION OF SOLICITATION SHOWING A CONCERTED EFFORT. NRS 233B.0608(1).**

This proposed regulation is limited to allowing Nevada's insurance producers to charge fees for consultation and other services related to individual health benefit plans. Producers are currently allowed to charge fees for consulting services on group life, health and annuity products, so the change contained in this regulation is limited to individuals, not small businesses. Because of that, the Life and Health Section of the Nevada Division of Insurance determined there was no reason or benefit to be gained from polling non-insurance small businesses about the impact of this regulation. Additionally, an advisory group of Nevada health insurance producers, who are also small business owners, provided comments relevant to creating this regulation.

3. **DOES THE PROPOSED REGULATION IMPOSE A DIRECT AND SIGNIFICANT ECONOMIC BURDEN UPON A SMALL BUSINESS OR DIRECTLY RESTRICT THE FORMATION, OPERATION OR EXPANSION OF A SMALL BUSINESS? NRS 233B.0608(1).**

NO

YES




4. HOW WAS THAT CONCLUSION REACHED? NRS 233B.0608(3).

The Life and Health Section of the Nevada Division of Insurance internally analyzed the impact of this regulation on Nevada small businesses. Because the new regulation only applies to consultation and other services related to individual health insurance benefit plans, it was determined that this regulation would not have any negative impact on small businesses.

I, BARBARA D. RICHARDSON, Commissioner of Insurance for the State of Nevada, hereby certify to the best of my knowledge or belief a concerted effort was made to determine the impact of the proposed regulation on small businesses and that this statement was prepared properly and the information contained herein is accurate. (NRS 233B.0608(3))

1/3/18  
(DATE)

  
BARBARA D. RICHARDSON  
Commissioner of Insurance

**Small Business Impact Statement**  
**NRS 233B.0608(2)-(4) and 233B.0609**

Producer Fees Regulation

This regulation is proposed to expand the ability of producers to charge fees for consultation or related advice for individual health benefit plans, and to provide additional disclosures that are required to be included in the written agreements between the producer and his or her prospective client.

1. SUMMARY OF COMMENTS RECEIVED FROM SMALL BUSINESSES. NRS 233B.0609(1)(a).

An advisory group of health insurance producers from both Northern and Southern Nevada worked on creating the language for this regulation. These producers are also small business owners in the state, and their comments were considered in drafting the regulation.

Other interested parties may receive a copy of this summary by contacting Susan Bell, Legal Secretary, Nevada Division of Insurance, at (775) 687-0704 or suebell@doi.nv.gov.

2. HOW WAS THE ANALYSIS CONDUCTED? NRS 233B.0609(1)(b).

This proposed regulation is limited to allowing Nevada's insurance producers to charge fees for consultation and other services related to individual health benefit plans. Producers are currently allowed to charge fees for consulting services on group life, health and annuity products, so the change contained in this regulation is limited to individuals, not small businesses. Because of that, the Life and Health Section of the Nevada Division of Insurance determined there was no reason or benefit to be gained from polling non-insurance small businesses about the impact of this regulation. Additionally, an

advisory group of Nevada health insurance producers, who are also small business owners, provided comments relevant to creating this regulation.

3. ESTIMATED ECONOMIC EFFECT ON SMALL BUSINESSES THE REGULATION IS TO REGULATE. NRS 233B.0609(1)(c).

This regulation is expected to have no impact on non-insurance small businesses in the State of Nevada. There may be an economic benefit to small businesses that are insurance agencies or brokerages which receive reduced or no compensation from the insurance carrier, but can now charge a fee to the consumer.

4. METHODS CONSIDERED TO REDUCE IMPACT ON SMALL BUSINESSES. NRS 233B.0609(1)(d).

There were no methods considered since the regulation only applies to individual health insurance benefit plans and the producer fee is for an optional service made available to the general public.

5. ESTIMATED COST OF ENFORCEMENT. NRS 233B.0609(1)(e).

There is no anticipated cost of enforcement for this regulation. The existing staff of the Division of Insurance is expected to be sufficient.

6. FEE CHANGES. NRS 233B.0609(1)(f).

This regulation does not include any new state fees or charges.

7. DUPLICATIVE PROVISIONS. NRS 233B.0609(1)(g).


This regulation does not duplicate any existing federal, state or local standards. It is also not more stringent than any existing federal, state or local standards.

8. REASONS FOR CONCLUSIONS. NRS 233B.0609(1)(h).

The Life and Health Section of the Nevada Division of Insurance internally analyzed the impact of this regulation on Nevada small businesses. Because the new regulation only applies to consultation and other services related to individual health insurance benefit plans and the consultation is an optional service that the consumer chooses whether to accept or not, it was determined that this regulation would not have any negative impact on small businesses.

I, BARBARA D. RICHARDSON, Commissioner of Insurance for the State of Nevada, hereby certify to the best of my knowledge or belief a concerted effort was made to determine the impact of the proposed regulation on small businesses and that this statement was prepared properly and the information contained herein is accurate. (NRS 233B.0609(2))

1/3/18  
(DATE)

  
BARBARA D. RICHARDSON  
Commissioner of Insurance