

**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 **9:30 a.m. on October 18, 2017**, in the 1st 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 4th 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 687B 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. R025-17. Network Adequacy Plan Year 2018.

A regulation relating to insurance; requiring a network plan to satisfy certain requirements before the Commissioner of Insurance can determine that such a network plan is adequate; and providing other matters properly relating thereto.

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

The regulation is necessary to comply with the requirement that the Commissioner issue the network adequacy standards required of all network plans. See NRS 687B.490 and R049-14. The purpose of the regulation is to establish adequacy standards for network plans for plan year 2018.

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

The regulation was proposed under the authority of NRS 687B.490. The regulation amends NAC 687B providing standards for measuring the network adequacy of a network plan to ensure consumers of health plans can reasonably access certain providers. The regulation incorporates the standards to NAC 687B based on changes promulgated earlier this year under LCB file number R049-14 which have not been codified.

The changes promulgated in 2016 under LCB file number R049-14 amended Chapter 687B of the Nevada Administrative Code to add provisions relating to the adequacy of a network plan. These provisions also gave the Commissioner of Insurance the authority to establish a Network Adequacy Advisory Council for the purpose of providing annual recommendations pertaining to the standards used to measure the adequacy of a network plan.

The Network Adequacy Advisory Council conducted the first meeting for plan year 2018 on June 15, 2016. The nine-member Council held a total of five public meetings in which they conducted discussions, reviewed data, and received public input related to network adequacy. Recordings of the meetings as well as supporting documentation presented during the meetings are available on the Division's website at www.doi.nv.gov. On September 15, 2016, a Report including the Council's network adequacy recommendations was submitted to the Commissioner of Insurance. Based on the Commissioner's review of the Report, the Commissioner seeks to promulgate this regulation to enact network adequacy standards.

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

Once implemented, policyholders should be able to more reasonably access appropriate care with in-network providers. As the network adequacy requirements are updated each year, they should provide a more broad base of "in network" healthcare providers and access thereto. By providing a more broad base of "in network" healthcare providers and access thereto, policyholders should experience lower out-of-pocket costs.

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

There are no other regulations that overlap or duplicate the regulation.

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

There are no other regulations that overlap or duplicate the regulation.

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

The regulation provides standards for measuring the network adequacy of a network plan to ensure consumers of health plans can reasonably access certain providers.

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

a. Public

1. Immediate: *Once implemented, members should be able to more reasonably access appropriate care with in-network providers.*
2. Long Term: *As the network adequacy requirements are updated each year, they will generally provide a more broad base of "in network" healthcare providers and access thereto. By providing a more broad base of "in network" healthcare providers and access thereto, policyholders should experience lower out-of-pocket costs.*

b. Insurance Business

1. Immediate: *None*
2. Long Term: *Carriers will be able to better measure members' needs and use of providers to better plan.*

- c. Small Businesses
 - 1. Immediate: *None*
 - 2. Long Term: *Providers that qualify as small businesses may have more opportunities, options, or negotiating power.*
- d. Small Communities
 - 1. Immediate: *None*
 - 2. Long Term: *If consumers are better able to access services through their insurance, there may be less reliance on other health care options that are more expensive or that clog up the resources in small communities.*
- e. Government Entities
 - 1. Immediate: *None*
 - 2. Long Term: *None*

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

- a. Public
 - 1. Immediate: *As carriers obtain experience data, there may be a learning curve that may impact members' abilities to access care as quickly as hoped.*
 - 2. Long Term: *Although network adequacy requirements will be issued each year, this does not guarantee that every healthcare provider sought by a policyholder will always be an "in-network" provider. As a result, the policyholder may still be responsible for paying some additional amounts out-of-pocket for an "out-of-network" provider.*
- b. Insurance Business
 - 1. Immediate: *The health insurance carriers will be required to demonstrate the adequacy of their network plans based on the network adequacy standards in the regulation. Carriers will likely have to adjust their network plans to meet member needs. Carriers may have to add additional healthcare providers to their current network plan designs.*
 - 2. Long Term: *Once carriers establish the relevant number and types of healthcare providers necessary to meet the network adequacy requirements, the impact on carriers will be better known. Data will be gathered by the Division through its annual review of performance of a carrier's network plan. This data can then be studied to better predict long-term effects of certain network adequacy requirements.*
- c. Small Businesses
 - 1. Immediate: *No adverse impact is anticipated by this regulation.*
 - 2. Long Term: *No adverse impact is anticipated by this regulation.*
- d. Small Communities
 - 1. Immediate: *No adverse impact is anticipated by this regulation.*
 - 2. Long Term: *No adverse impact is anticipated by this regulation.*

- e. Government Entities
 - 1. Immediate: *No adverse impact is anticipated by this regulation.*
 - 2. Long Term: *No adverse impact is anticipated by this regulation.*

(9) What is the anticipated cost of the regulation, both direct and indirect?

The Division anticipates no additional costs. NRS 687B.490(6) requires that any expense borne by the Division in determining the adequacy of a network plan be assessed against the insurance carrier applying for the network plan approval.

- a. Enactment: *The Division already has in place procedures for certifying the adequacy of a network plan and does not anticipate a direct cost to promulgate the regulation. NRS 687B.490(6) requires that any expense borne by the Division in determining the adequacy of a network plan be assessed against the insurance carrier applying for the network plan approval.*
- b. Enforcement: *The Division anticipates no additional costs. NRS 687B.490(6) requires that any expense borne by the Division in determining the adequacy of a network plan be assessed against the insurance carrier applying for the network plan approval.*
- c. Compliance: *The Division anticipates no additional costs. NRS 687B.490(6) requires that any expense borne by the Division in determining the adequacy of a network plan be assessed against the insurance carrier applying for the network plan approval.*

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

The regulation does not create a new 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.

The Division solicited comments from the Chambers of Commerce throughout the state of Nevada and requested that our solicitation be forwarded to members of the Chambers. Further, during the two-year process of promulgating the network adequacy regulation, which involved numerous parties, comments, and meetings, the Division received no comments that suggest that quantifying network adequacy standards in a regulation would impact small businesses. The Division has also conducted extensive analysis and research of network adequacy standards to determine its reach.

(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.

There are no other state regulations that overlap or duplicate the regulation. There are no federal regulations that address the requirements in the regulation for all network plans in the individual and small group markets.

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

There are no federal regulations that address the requirements in the regulation for all network plans in the individual and small group markets.

- (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.

There are no federal regulations that address the requirements in the regulation for all network plans in the individual and small group markets.

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 September 26, 2017.** 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

Legislative Building
401 South Carson Street
Carson City, Nevada 89701

Blasdel Building
209 East Musser Street
Carson City, Nevada 89701

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

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

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

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

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

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

Lyon County Library
20 Nevin Way
Yerington, Nevada 89447

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

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

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

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

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

Churchill County Library
553 South Main Street
Fallon, Nevada 89406

Elko County Library
720 Court Street
Elko, Nevada 89801

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

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

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

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

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 Jeremy Gladstone, Actuarial Analyst, at (775) 687-0729, or via e-mail to jgladstone@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.

DATED this 14th day of September, 2017.



BARBARA D. RICHARDSON
Commissioner of Insurance

HEARING AGENDA

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

October 18, 2017 • 9:30 a.m.

Location of Hearing:

Nevada Division of Insurance
1818 E. College Pkwy., 1st 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., 4th Floor Nevada Room
Las Vegas, NV 89102
(Division Offices located in Suite 275)

1. Open Hearing: R025-17.
2. Presentation, Discussion and Adoption of Proposed Regulation. (For Possible Action)

LCB File No. R025-17. Network Adequacy Plan Year 2018.

A regulation relating to insurance; requiring a network plan to satisfy certain requirements before the Commissioner of Insurance can determine that such a network plan is adequate; and providing other matters properly relating thereto.

3. Public Comment.
4. Close Hearing: R025-17.
5. Adjournment.

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.

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.

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 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)
The Nevada State Legislature Website (www.leg.state.nv.us)
The Nevada Division of Insurance Website (www.doi.nv.gov)

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

LCB File No. R025-17

September 5, 2017

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

AUTHORITY: §§1-7, NRS 679B.130 and 687B.490, as amended by section 88 of Assembly Bill No. 83, chapter 376, Statutes of Nevada 2017, at page 2355.

A REGULATION relating to insurance; requiring a network plan to satisfy certain requirements before the Commissioner of Insurance can determine that such a network plan is adequate; 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 the Nevada Insurance Code and as required to ensure compliance with federal law relating to insurance. (NRS 679B.130) Existing law also requires: (1) a carrier that offers coverage in the small employer group or individual market to demonstrate the capacity to deliver services adequately before making any network plan available for sale in this State; and (2) the Commissioner to promulgate regulations concerning the organizational arrangements of the network plan and the procedure established for the network plan to develop, compile, evaluate and report statistics relating to its operations and services. (NRS 687B.490, as amended by section 88 of Assembly Bill No. 83, chapter 376, Statutes of Nevada 2017, at page 2355)

In 2016, the Commissioner adopted by reference certain standards prescribed by the Centers for Medicare and Medicaid Services (CMS) of the United States Department of Health and Human Services for determining the adequacy of a network plan made available for sale in this State. (Section 9 of LCB File No. R049-14)

Section 1 of this regulation requires a network plan, in order for the Commissioner to determine that a network plan made available for sale in this State is adequate, to contain: (1) the most recent version of the standards prescribed by CMS; and (2) evidence that the network plan provides reasonable access to at least one provider who practices in the specialty area of pediatrics by complying with the area designations for the maximum time and distance standards.

Sections 2-7 of this regulation make conforming changes.

Section 1. Section 9 of LCB File No. R049-14 is hereby amended to read as follows:

Sec. 9 1. ~~{For the purpose of determining the adequacy of}~~ *In order for the Commissioner to determine that* a network plan made available for sale in this State ~~†~~ ~~the Commissioner hereby adopts by reference the}~~ *is adequate, the network plan must contain, at a minimum:*

(a) *The* standards contained in the ~~{2017}~~ *most recent* Letter to Issuers in the Federally-facilitated Marketplaces issued by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services. A copy of the letter may be obtained free of charge at the Internet address

<https://www.cms.gov/CCIIO/resources/regulations-and-guidance/>.

(b) *Evidence that the network plan provides reasonable access to at least one provider in the specialty area listed in the following table for at least 90 percent of enrollees by complying with the area designations for the maximum time and distance standards in the following table:*

<i>Specialty Area</i>	<i>Maximum Time and Distance Standards (Minutes/Miles)</i>			
	<i>Metro</i>	<i>Micro</i>	<i>Rural</i>	<i>Counties with Extreme Access Considerations (CEAC)</i>
<i>Pediatrics</i>	<i>25/15</i>	<i>30/20</i>	<i>40/30</i>	<i>105/90</i>

2. *If the area designations for the maximum time and distance standards required pursuant to paragraph (b) of subsection 1 are changed by the most recent Letter to Issuers in the Federally-facilitated Marketplaces, the Commissioner will post on the Internet website maintained by the Division notice of such changes.*

3. Upon the issuance of a new Letter to Issuers in the Federally-facilitated Marketplaces, the Commissioner will determine whether the requirements of sections 2 to 18, inclusive, of this regulation, including, without limitation, the standards ~~adopted by reference in~~ *required pursuant to* subsection 1, conform with any similar standards prescribed in the new Letter to Issuers in the Federally-facilitated Marketplaces. If the Commissioner determines that the requirements of sections 2 to 18, inclusive, of this regulation do not conform with any similar standards prescribed in the new Letter to Issuers in the Federally-facilitated Marketplaces, the Commissioner will hold a public hearing concerning possible amendments to sections 2 to 18, inclusive, of this regulation and give notice of that hearing in accordance with NRS 233B.060 . ~~at least 30 days before the date of the hearing.~~

4. *As used in this section, “maximum time and distance standards” has the meaning ascribed to it in the most recent Letter to Issuers in the Federally-facilitated Marketplaces.*

Sec. 2. Section 11 of LCB File No. R049-14 is hereby amended to read as follows:

Sec. 11. 1. The Council shall consider the standards ~~adopted by reference in~~ *required pursuant to* section 9 of this regulation and any other requirements of sections 2 to 18, inclusive, of this regulation and may recommend additional or alternative standards for determining whether a network plan is adequate.

2. The recommendations proposed by the Council to the Commissioner:

(a) Must include quantifiable metrics commonly used in the health care industry to measure the adequacy of a network plan;

(b) Must include, without limitation, recommendations for standards to determine the adequacy of a network plan with regard to the number of providers of health care that:

(1) Practice in a specialty or are facilities that appear on the Essential Community Providers/Network Adequacy Template issued by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services and available at the Internet address <https://www.cms.gov/CCIIO/programs-and-initiatives/health-insurance-marketplaces/qhp.html> free of charge, which is hereby adopted by reference; and

(2) Are necessary to provide the coverage required by law, including, without limitation, the provisions of NRS 689A.0435, 689C.1655, 695C.1717 and 695G.1645;

(c) May propose standards to determine the adequacy of a network plan with regard to types of providers of health care other than those described in paragraph (b); and

(d) May, if a sufficient number of essential community providers, as defined in 45 C.F.R. § 156.235(c), are available and willing to enter into an agreement with a carrier to participate in network plans, propose requiring a network plan to include a greater number of such providers than the number of providers of health care of that type that a network plan is required to include pursuant to the standards ~~adopted by reference in~~ *required pursuant to* section 9 of this regulation and any other requirements of sections 2 to 18, inclusive, of this regulation.

3. The Council must submit its recommendations to the Commissioner on or before September 15 of each year. On or before October 15 of each year, the Commissioner will determine whether to accept any of the recommendations of the Council and take any action necessary to issue any new requirements for determining the adequacy of a

network plan. Any such new requirements will become effective on the second January 1 next ensuing after the adoption of the requirements.

Sec. 3. Section 12 of LCB File No. R049-14 is hereby amended to read as follows:

Sec. 12. 1. Each carrier or other person or entity that applies to the Commissioner for approval to issue a network plan pursuant to NRS 687B.490, as amended by section 28 of Assembly Bill No. 292, chapter 153, Statutes of Nevada 2015, at page 636, *and by section 88 of Assembly Bill No. 83, chapter 376, Statutes of Nevada 2017, at page 2355*, shall submit to the Commissioner with its annual rate filing sufficient data and documentation to establish that the proposed network plan meets the standards ~~adopted by reference in~~ *required pursuant to* section 9 of this regulation and any other requirements of sections 2 to 18, inclusive, of this regulation.

2. The data and documentation submitted to the Commissioner pursuant to subsection 1 must be in a format prescribed by the Commissioner.

Sec. 4. Section 13 of LCB File No. R049-14 is hereby amended to read as follows:

Sec. 13. 1. Each carrier shall update its directory of providers of health care at least once each month. Except as otherwise provided in this subsection, each update to the directory must include each provider of health care who, as of the previous month, is no longer in the network plan or has stopped accepting new patients. A carrier shall not be deemed to have violated the provisions of this subsection if a provider of health care fails to provide information to the carrier which the provider of health care is contractually obligated to provide to the carrier.

2. If a change occurs to the network plan of a carrier that results in the network plan failing to meet the standards ~~adopted by reference in~~ *required pursuant to* section 9 of

this regulation or any other requirement of sections 2 to 18, inclusive, of this regulation, the carrier must update its directory of providers of health care not later than 5 business days after the effective date of the change and include in the directory a clear description of the change.

3. The directory of providers of health care and each update to the directory must be:

(a) Posted to a publicly available Internet website maintained by the carrier not later than 5 business days after the update is completed;

(b) Posted in a manner that allows a person who is not enrolled in any plan offered by the carrier to view the directory; and

(c) Made available in a printed format to any person upon request.

4. As used in this section:

(a) “Directory of providers of health care” means a list of physicians, hospitals and other professionals and organizations that provide health care services, including, without limitation, through telehealth, as part of a network plan.

(b) “Telehealth” has the meaning ascribed to it in section 3 of Assembly Bill No. 292, chapter 153, Statutes of Nevada 2015, at page 621.

Sec. 5. Section 14 of LCB File No. R049-14 is hereby amended to read as follows:

Sec. 14. A carrier shall:

1. Within 3 business days after the effective date of a change to a network plan that results in the network plan failing to meet the standards ~~adopted by reference in~~ *required pursuant to* section 9 of this regulation or any other requirement of sections 2 to 18, inclusive, of this regulation, notify the Commissioner in writing of the change; and

2. Within 10 business days after the effective date of a change to a network plan that results in the network plan failing to meet the standards ~~adopted by reference in~~ *required pursuant to* section 9 of this regulation or any other requirement of sections 2 to 18, inclusive, of this regulation, provide to the Commissioner a written description of the cause of the change, the impact of the change on the network plan and a summary of the measures that the carrier will take to bring the network plan into compliance with those standards and requirements.

Sec. 6. Section 15 of LCB File No. R049-14 is hereby amended to read as follows:

Sec. 15. 1. A carrier shall, within 60 days after the effective date of a change to a network plan that results in the network plan failing to meet the standards ~~adopted by reference in~~ *required pursuant to* section 9 of this regulation or any other requirement of sections 2 to 18, inclusive, of this regulation, submit to the Commissioner for approval a written corrective action plan to bring the network plan into compliance with those standards and requirements.

2. Except as otherwise provided in subsection 3, during the period in which the network plan does not meet the standards ~~adopted by reference in~~ *required pursuant to* section 9 of this regulation or any other requirement of sections 2 to 18, inclusive, of this regulation, the carrier shall, at no greater cost to the covered person:

(a) Ensure that each covered person affected by the change may obtain any covered service from a qualified provider of health care who is:

(1) Within the network plan; or

(2) Not within the network plan by entering into an agreement with the nonparticipating provider of health care pursuant to NRS 695G.164; or

(b) Make other arrangements approved by the Commissioner to ensure that each covered person affected by the change is able to obtain the covered service.

3. The provisions of subsection 2 do not apply to services received from a nonparticipating provider of health care without the prior authorization of the carrier unless the services received are medically necessary emergency services, as defined in subsection 3 of NRS 695G.170.

Sec. 7. Section 16 of LCB File No. R049-14 is hereby amended to read as follows:

Sec. 16. If a network plan does not meet the standards ~~adopted by reference in~~ *required pursuant to* section 9 of this regulation or any other requirement of sections 2 to 18, inclusive, of this regulation and the Commissioner does not approve the corrective action plan submitted pursuant to section 15 of this regulation, the Commissioner may:

1. For a qualified health plan, determine that the network plan is inadequate pursuant to subsection 5 of NRS 687B.490; or

2. For any network plan other than a qualified health plan, determine that the network plan is inadequate pursuant to subsection 5 of NRS 687B.490 and require the carrier to submit a statement of network capacity to the Commissioner demonstrating that the carrier meets the conditions described in 42 U.S.C. § 300gg-1(c)(1)(B).

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

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

LCB File No. R025-17
Network Adequacy Plan Year 2018

A regulation relating to insurance; establishing certain requirements relating to the adequacy of a network plan issued by a carrier; and establishing provisions relating to the determination by the Commissioner of Insurance whether a network plan is adequate.

EFFECTIVE DATE OF REGULATION:
January 1, 2018

1. **BACKGROUND.**

The regulation was proposed under the authority of NRS 687B.490. The regulation amends NAC 687B providing standards for measuring the network adequacy of a network plan to ensure consumers of health plans can reasonably access certain providers. The regulation incorporates the standards to NAC 687B based on changes promulgated earlier this year under LCB File Number R049-14 which have not been codified.

The changes promulgated in 2016 under LCB File Number R049-14, amended Chapter 687B of the Nevada Administrative Code to add provisions relating to the adequacy of a network plan. These provisions also gave the Commissioner of Insurance the authority to establish a Network Adequacy Advisory Council for the purpose of providing annual recommendations pertaining to the standards used to measure the adequacy of a network plan.

The Network Advisory Council conducted the first meeting for plan year 2018 on June 15, 2016. The nine-member Council held a total of five public meetings in which they conducted discussions, reviewed data, and received public input related to network adequacy. Recordings of the meetings and supporting documentation presented during the meetings are available on the Division's website at www.doi.nv.gov. On September 15, 2016 a Report including the Council's network adequacy recommendations was submitted to the Commissioner of Insurance. Based on the Commissioner's review of the Report, the Commissioner seeks to promulgate this regulation to enact network adequacy standards.

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

The Division of Insurance drafted a survey requesting respondents self-identify as a statutory small business and provide feedback concerning the effects of the proposed regulation on business. The survey consisted of the following questions.

1. "Do small businesses offer a health insurance plan with an in-network benefit to their employees? If so, what is the percentage of small businesses that offer this type of product to their employees?"
2. "Do small businesses plan to offer a health insurance plan with an in-network benefit to their employees for plan year 2018? If so, what is the percentage of small businesses that plan to offer this type of product to their employees for plan year 2018?"

The survey was sent out to the Chambers of Commerce throughout the state of Nevada for distribution to their members. The Division did not receive any response to the survey from the Chambers. The Division will continue to solicit comments from the small business community during the workshop and hearing process. The Division will update the small business impact during this process to include any feedback received.

Further, during the two-year process of promulgating the network adequacy regulation, which involved numerous parties, comments, and meetings, the Division received no comments which suggest that quantifying network adequacy standards in a regulation would impact small businesses. The Division has also conducted extensive analysis and research of network adequacy standards to determine its reach.

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 Division of Insurance has reached out to the Chambers of Commerce throughout the state of Nevada, but has received no response to the survey. Based on analysis done by Division staff, the Division anticipates the impact of the proposed regulation on small business to be minimal to none given that many network plans currently offer the benefits measured. Further, during the two-year process of promulgating the network adequacy regulation, which involved numerous parties, comments, and meetings, the Division received no comments that suggest that quantifying network adequacy standards in a regulation would impact small businesses. The Division has also conducted extensive analysis and research of network adequacy standards to determine its reach.

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))

(DATE)

9/11/17

BARBARA D. RICHARDSON
Commissioner of Insurance

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

LCB File No. R025-17
Network Adequacy Plan Year 2018

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

No responses were received through the survey conducted through the Chambers of Commerce throughout the State of Nevada. Further, during the two-year process of promulgating the network adequacy regulation, which involved numerous parties, comments, and meetings, the Division received no comments which suggest that quantifying network adequacy standards in a regulation would impact small businesses. The Division has also conducted extensive analysis and research of network adequacy standards to determine its reach.

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 regulation was reviewed and discussed by the Life and Health Section of the Nevada Division of Insurance. The experience and expertise of the section members were used to analyze the proposed language of the regulation, and they determined that no impact on small business would be made by these changes.

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

The Division does not anticipate an impact on small business.

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

The Division anticipates no additional costs or impact on small business. NRS 687B.490(6) requires that any expense borne by the Division in determining the adequacy of a network plan be assessed against the insurance carrier applying for the network plan approval.

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

There is no additional cost to the Division of Insurance to enforce this.

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

No new or additional fees are established.

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

There are no duplicative provisions created by this regulation.

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

The Division of Insurance has reached out to the Chambers of Commerce throughout the state of Nevada, but has received no response to the survey. Based on analysis done by Division staff, the Division anticipates the impact of the proposed regulation on small business to be minimal to none given that many network plans currently offer the benefits measured. Further, during the two-year process of promulgating the network adequacy regulation, which involved numerous parties, comments, and meetings, the Division received no comments that suggest that quantifying network adequacy standards in a regulation would impact small businesses. The Division has also conducted extensive analysis and research of network adequacy standards to determine its reach.

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))

9/11/17

(DATE)



BARBARA D. RICHARDSON
Commissioner of Insurance