

NOTICE OF INTENT TO ACT UPON REGULATION

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 February 17, 2016**, at the Division’s office located at 1818 East College Parkway, 1st floor hearing room, Carson City, Nevada 89706. Interested persons may also participate through a simultaneous videoconference conducted at the Bradley Building, 2501 East Sahara Avenue, 2nd floor conference room, Las Vegas, Nevada 89104. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment or repeal of the regulation(s) that pertain(s) to **chapter 689A** of the Nevada Administrative Code (“NAC”).

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

LCB File No. R039-14, NRS 689A Conformity.

A regulation relating to insurance; revising provisions relating to advertising by certain insurers; repealing provisions relating to certain forms, change of status by an individual carrier, the content of the actuarial certification filed by an individual carrier, disclosure of variance in premium rates by an individual carrier and the filing of an annual report by an insurer; and providing other matters properly relating thereto.

EXPLANATION FOR PROPOSED REGULATION

(1) Why is the regulation necessary and what is its purpose? *Assembly Bill 425 of the 77th (2013) Legislative Session (“AB 425”) made a multitude of changes to Title 57 of the Nevada Revised Statutes (“NRS”) with the intent of bringing state law into conformity with federal laws enacted in the Patient Protection and Affordable Care Act (“ACA”). The changes contained within AB 425 rendered several existing regulations outdated or obsolete. This proposed regulation effectuates the amendment or repeal of these outdated and obsolete regulations, as appropriate.*

(2) What are the terms or substance of the proposed regulation? Provide a description of the subjects, issues and problems involved. *Nevada Administrative Code (“NAC”) 689A.020 is proposed to be amended to include Internet communications in the definition of an advertisement. NAC 689A.270 is proposed to be amended to repeal subsections 2 and 3 which have been determined to pose an unnecessary burden on business. NAC 689A.350 provides guidance on the acceptability of forms which is superseded by existing law and is proposed to be repealed. NAC 689A.445, 689A.455, 689A.465 and 689A.485 provide guidance on portability and accountability provisions which have been repealed and are themselves proposed to be repealed. 689A.615 provides guidance on reporting which is an unnecessary burden on business and is proposed to be repealed.*

(3) What is the anticipated impact of the regulation on the problem(s)? *The proposed amendments and retractions are anticipated to bring the respective portions of NAC into compliance with NRS and federal law while reducing the burden on interested parties.*

(4) Do other regulations address the same problem(s)? *No*

(5) Are alternate forms of regulation sufficient to address the problem(s)? *No*

(6) What value does the regulation have to the public? *Amendment and repeal of outdated regulations reduces confusion among the public by simplifying the regulatory process.*

(7) What is the anticipated economic benefit of the regulation? Provide a statement as to potential beneficial impact on the following:

- a. Public
 - 1. Immediate: *N/A*
 - 2. Long Term: *N/A*
- b. Insurance Business
 - 1. Immediate: *N/A*
 - 2. Long Term: *N/A*
- c. Small Businesses
 - 1. Immediate: *N/A*
 - 2. Long Term: *N/A*
- d. Small Communities
 - 1. Immediate: *N/A*
 - 2. Long Term: *N/A*
- e. Government Entities
 - 1. Immediate: *N/A*
 - 2. Long Term: *N/A*

(8) What is the anticipated adverse impact, if any? Provide a statement as to any anticipated adverse impact, including adverse economic effects, on the following:

- a. Public
 - 1. Immediate: *N/A*
 - 2. Long Term: *N/A*
- b. Insurance Business
 - 1. Immediate: *N/A*
 - 2. Long Term: *N/A*
- c. Small Businesses

- 1. Immediate: *N/A*
- 2. Long Term: *N/A*

- d. Small Communities
 - 1. Immediate: *N/A*
 - 2. Long Term: *N/A*

- e. Government Entities
 - 1. Immediate: *N/A*
 - 2. Long Term: *N/A*

(9) What is the anticipated cost of the regulation, both direct and indirect? Provide a statement as to the cost of:

- a. Enactment: *N/A*
- b. Enforcement: *N/A*
- c. Compliance: *N/A*

(10) Provide a statement indicating whether the regulation establishes a new fee or increases an existing fee. *The regulation does not establish a new fee or increase any existing fees.*

(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. *Will be provided for the regulation workshop; not required at this time.*

(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. *N/A*

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

(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. *N/A*

Persons wishing to comment upon the proposed action of the Division may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Division, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706. **Written submissions must be received by the Division on or before February 3, 2016.** 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 will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation will be available at the offices of the Division,

1818 East College Parkway, Suite 103, Carson City, Nevada 89706, and 2501 East Sahara Avenue, Suite 302, Las Vegas, Nevada 89104, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed 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:

Department of Business and Industry
Division of Insurance
1818 East College Parkway, Suite 103
Carson City, Nevada 89706

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

Legislative Building
401 South Carson Street
Carson City, Nevada 89701

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

Blasdel Building
209 East Musser Street
Carson City, Nevada 89701

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

Nevada Department of Employment,
Training and Rehabilitation
2800 E. Saint Louis Ave.
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

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

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

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 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 Cliff King, chief Insurance Examiner, at (775) 687-0736, or via e-mail to cking@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 at 1818 East College Parkway, Suite 103, Carson City, Nevada 89706, or by calling (775) 687-0700, a day prior to the hearing.

DATED this 14th day of January, 2016.



AMY L. PARKS
Acting Commissioner of Insurance

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

Determination of Necessity of Small Business Impact Statement

LCB File No. R039-14

A regulation revising provisions relating to advertising by certain insurers; repealing provisions of certain forms, change of status by an individual carrier, the content of the actuarial certification filed by an individual carrier, disclosure of variance in premium rates by an individual carrier and the filing of an annual report by an insurer; and providing other matters properly related thereto.

Effective Date of Regulation: Upon filing with the Nevada Secretary of State.

1. BACKGROUND

Section 1 of the proposed regulation adds the term "internet websites" to the definition of "advertisement." The original regulation was adopted in 1972 prior to the advent of internet advertisement. Accordingly, the proposed regulation seeks to update the definition to encompass internet websites. Section 2 removes the requirement to file an annual statement concerning advertisements. Section 3 repeals certain provisions of NRS 689A.

2. DESCRIPTION OF SOLICITATION

To the extent practicable, the Division of Insurance made a concerted effort to determine whether the proposed regulation is likely to impose a direct and significant economic burden upon a small business, or directly restrict the formation, operation or expansion of a small business. The Division determined the proposed regulations do not impose a direct or significant economic burden upon small business. The Division also conducted an analysis of the likely impact of the proposed regulation on any anticipated future small business that may be impacted and also considered methods to reduce any impact of the proposed regulation on any anticipated future small business. The Division concluded that the proposed regulation does not and is not likely to impose a direct or significant economic burden on small business. The Division also concluded that the proposed regulation does not directly restrict the formation, operation or expansion of a small business.

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 (answer #4) YES (skip to #5)

4. HOW WAS THAT CONCLUSION REACHED? (NRS 233B.0608.3)

The proposed regulations do not impose a direct or significant economic burden upon small business as defined by NRS chapter 233B. The proposed regulations do not directly restrict the formation, operation or expansion of a small business, as they apply to insurers which are not small business.

I, Amy L. Parks, Acting Commissioner of Insurance for the State of Nevada, certify that, 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 the information contained in the statement above is accurate. (NRS 233B.0608.3)

1/14/16
(DATE)


AMY L. PARKS
Acting Commissioner of Insurance

Small Business Impact Statement

R039-14

5. SUMMARY OF COMMENTS RECEIVED FROM SMALL BUSINESSES (NRS 233B.0609.1.a)
N/A
6. ESTIMATED ECONOMIC EFFECT ON SMALL BUSINESSES THE REGULATION IS TO REGULATE (NRS 233B.0609.1.c)
N/A
7. METHODS CONSIDERED TO REDUCE IMPACT ON SMALL BUSINESSES (NRS 233B.0609.1.d)
N/A
8. ESTIMATED COST OF ENFORCEMENT (NRS 233B.0609.1.e)
N/A
9. FEE CHANGES (NRS 233B.0609.1.f)
N/A
10. DUPLICATIVE PROVISIONS (NRS 233B.0609.1.g)
N/A
11. HOW WAS THE ANALYSIS CONDUCTED? (NRS 233B.0609.1.b)
N/A
12. REASONS FOR CONCLUSIONS (NRS 233B.0609.1.h)
N/A

I, Amy L. Parks, Acting Commissioner of Insurance for the State of Nevada, certify that, to the best of my knowledge or belief, the information contained in the statement above was prepared properly and is accurate. (NRS 233B.0609.2)

1/14/16
(DATE)


AMY L. PARKS
Acting Commissioner of Insurance

BRIAN SANDOVAL
Governor

STATE OF NEVADA

BRUCE H. BRESLOW
Director



AMY L. PARKS
Acting Commissioner

DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

1818 East College Pkwy., Suite 103
Carson City, Nevada 89706
(775) 687-0700 • Fax (775) 687-0787
Website: doi.nv.gov
E-mail: insinfo@doi.nv.gov

Notice of Intent to Act Upon Regulation & Hearing Agenda
LCB File No. R039-14, NRS 689A Conformity

Agenda

Wednesday, February 17, 2016 • 1:30 P.M.

Location of Hearing:

Offices of the 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:

Offices of the Division of Insurance
2501 E. Sahara Ave., 2nd Floor Conference Room
Las Vegas, NV 89104
(Division Offices located in Suite 302)

1. **Call to Order.**
2. **Public Comment.**
3. **Presentation, Discussion and Adoption of Proposed Regulation. (For Possible Action)**
LCB File No. R039-14, NRS 689A Conformity.

A regulation relating to insurance; revising provisions relating to advertising by certain insurers; repealing provisions relating to certain forms, change of status by an individual carrier, the content of the actuarial certification filed by an individual carrier, disclosure of variance in premium rates by an individual carrier and the filing of an annual report by an insurer; and providing other matters properly relating thereto.

4. **Public Comment.**
5. **Adjournment.**

Supporting public material for this meeting may be requested from Sue Dummar, Legal Secretary, Nevada Division of Insurance, 1818 E. College Parkway, Carson City, Nevada 89706, by e-mail to sdummar@doi.nv.gov, or by calling (775) 687-0704. In your request, please state that you are

requesting meeting materials for LCB File No. **R039-14, NRS 689A Conformity**, and provide the date of the meeting.

Note: Any agenda item may be taken out-of-order; items may be combined for consideration by the public body; and items may be pulled or removed from the agenda 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 Sheri LeTourneau, Assistant to the Commissioner, at (775) 687-0771, a day prior to the meeting.

NOTICES FOR THIS MEETING 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, 2501 E. Sahara Avenue, Suite 302, Las Vegas, Nevada 89104

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 Department 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)

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R039-14

April 10, 2014

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

AUTHORITY: §§1-3, NRS 679B.130.

A REGULATION relating to insurance; revising provisions relating to advertising by certain insurers; repealing provisions relating to certain forms, change of status by an individual carrier, the content of the actuarial certification filed by an individual carrier, disclosure of variance in premium rates by an individual carrier and the filing of an annual report by an insurer; and providing other matters properly relating thereto.

Section 1. NAC 689A.020 is hereby amended to read as follows:

689A.020 “Advertisement” means:

1. Printed and published material and descriptive literature used in newspapers, magazines, radio and television scripts, billboards, *Internet websites* and similar displays;
2. Descriptive literature and sales aids of all kinds issued by an insurer for presentation to members of the public, including, but not limited to, circulars, leaflets, booklets, depictions, illustrations and form letters; and
3. Prepared sales talks, presentations and material for use by agents and brokers, and representations made by the agents and brokers in accordance with them.

Sec. 2. NAC 689A.270 is hereby amended to read as follows:

689A.270 ~~++~~ Each accident and health insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of individual policies and typical printed, published or prepared advertisements of blanket,

franchise and group policies disseminated in this or any other state whether or not licensed in the other state, with a notation attached to each advertisement which indicates the manner and extent of distribution and the form number of any policy advertised. The file is subject to inspection by the Division. All advertisements must be retained for at least 3 years.

~~{2.— Except as otherwise provided in subsection 3, each insurer which is required to file an annual statement with the Division or the National Association of Insurance Commissioners and which is subject to the provisions of this section must file with the Division a certificate executed by an authorized officer, certifying that, to his or her knowledge, information and belief, the advertisements which were disseminated by the insurer during the preceding statement year complied with the insurance laws of this State and NAC 689A.010 to 689A.270, inclusive.~~

~~—3.— Each insurer which is required to file an annual statement with the Division or the National Association of Insurance Commissioners and which did not disseminate or provide any advertisement in this State during the previous year must file with the Division a certificate, executed by an authorized officer, certifying that, to his or her knowledge, information and belief, the insurer did not disseminate or provide any advertisement in this State during the previous year.}~~

Sec. 3. NAC 689A.350, 689A.445, 689A.455, 689A.465, 689A.485 and 689A.615 are hereby repealed.

TEXT OF REPEALED SECTIONS

689A.350 Approved forms. (NRS 679B.130, 689A.105)

1. The Division hereby approves the Uniform American Medical Association Physicians Form and the form of the American Dental Association.

2. The American Hospital Billing and Claim form is required to be accepted by NRS 689A.105.

3. The following additional forms are hereby adopted and approved for use in this State:

(a) Nevada State Standard Health Insurance Form NSHF (76).

(b) Nevada State Standard Pharmacy Billing Form NSPF (76).

(c) Nevada State Standard Dental Billing Form NSDF (76).

(d) Nevada State Standard Authorization and Invoice for Dental Services - Title XIX NSDF (76).

(e) Nevada State Standard Authorizations and Invoice for Dental Services.

(f) EPSDT Screening Record and Invoice Title XIX EPSDT (76).

689A.445 Change of status: Application; approval; confidentiality; notice of approval or disapproval. (NRS 679B.130, 689A.670, 689A.740)

1. An individual carrier that elected to operate as an individual risk-assuming or reinsuring carrier pursuant to NRS 689A.670 may apply to the Commissioner to change its status.

2. The Commissioner will approve an application to change the status of an individual carrier if the individual carrier provides adequate evidence that a change in status is necessary for the individual carrier to meet its contractual and statutory obligations.

3. An individual carrier that applies for a change in its status pursuant to subsection 2 may request that the information on its application be kept confidential if disclosure of the information would adversely affect the financial solvency of the individual carrier or promote unfair competition among other individual carriers. The Commissioner will notify an individual carrier in writing of his or her decision to approve or disapprove a request for confidentiality within 30 days after receipt of the request.

4. The Commissioner will notify an individual carrier in writing of his or her decision to approve or disapprove an application to change the status of an individual carrier pursuant to subsection 2 within 60 days after receipt of the application.

689A.455 Change of status: Notification of Commissioner. (NRS 679B.130, 689A.670, 689A.740)

1. If an individual carrier wishes to change its election to operate as an individual risk-assuming or reinsuring carrier pursuant to NRS 689A.670 at the end of the current period of election, it shall notify the Commissioner not later than 30 days before the expiration of the current period of election.

2. If no such notice is provided, the individual carrier shall be deemed to have elected to operate with the same status for the next period of election.

689A.465 Actuarial certification. (NRS 679B.130, 689A.690, 689A.700, 689A.740) In addition to the information required to be included in the actuarial certification of an individual carrier pursuant to NRS 689A.690, the actuarial certification must include:

1. The number of blocks of business for individual health benefit plans established by the individual carrier;

2. After adjusting for rating characteristics and the design of benefits, the ratio of the highest written premium per natural person in a block of business for an individual health benefit plan to the lowest written premium per natural person in a block of business for an individual health benefit plan;

3. After adjusting for rating characteristics and the design of benefits, the ratio of the written premium per natural person in the block of business containing the basic and standard health benefit plan to the lowest written premium per natural person in a block of business for an individual health benefit plan; and

4. For each rating characteristic used in establishing premium rates, the ratio of the highest rating factor associated with any classification of that rating characteristic to the lowest rating factor associated with any classification of that rating characteristic.

5. As used in this section, “characteristic” has the meaning ascribed to it in subsection 5 of NRS 689A.680.

689A.485 Disclosure of variance in premium rate. (NRS 679B.130, 689A.710, 689A.740) If an individual carrier quotes a premium rate for an individual health benefit plan to a producer or a person who seeks health insurance coverage from the individual carrier, the individual carrier shall disclose how much the premium rate may vary from the quoted premium rate because of the health status of the person to be covered by the health insurance.

689A.615 Annual report. (NRS 679B.130, 689A.750)

1. An insurer shall submit its annual report regarding its system for resolving complaints as required pursuant to NRS 689A.750 on or before June 1 of each year. The insurer shall retain a

copy of the annual report for at least 3 years or until the next examination conducted by the Division, whichever is longer.

2. The insurer is not required to include in the annual report information concerning an oral inquiry by an insured relating to a misunderstanding or miscommunication if the misunderstanding or miscommunication was resolved within 1 working day after the inquiry was made. If the misunderstanding or miscommunication was not resolved within 1 working day, the insurer shall report it as a complaint in the annual report.