
MEMORANDUM

TO: PRODUCERS OF INSURANCE OR OTHER INTERESTED PARTIES
FROM: PRODUCT COMPLIANCE, NV DIVISION OF INSURANCE
SUBJECT: REFERRAL FEES
DATE: MAY 26, 2022

The purpose of this memorandum is to address whether Nevada law allows for the payment of referral fees to licensed insurance agents and non-licensed agents or individuals in the state of Nevada. There are several statutes which are applicable to this topic.

[Nevada Revised Statute \(“NRS”\) 683A.361](#) sections (1), (2), and (4) address referral fees.

Section 1 of NRS 683A.361 states:

An insurer or a producer of insurance shall not pay a commission, brokerage, fee for service or other valuable consideration to a person for selling, soliciting or negotiating insurance in this State if the activities of the person require the person to be licensed under this title and the person is not so licensed.

Section 2 of NRS 683A.361 states:

A person shall not accept a commission, brokerage, fee for service or other valuable consideration for selling, soliciting or negotiating insurance in this State if the activities of the person require the person to be licensed under this title and the person is not so licensed.

Section 4 of NRS 683A.361 states:

An insurer or producer of insurance may pay or assign commissions, brokerage, fees for service or other valuable considerations to a person who does not sell, solicit or negotiate insurance in this State unless the payment would violate the provisions of [NRS 686A.110](#) or [686A.120](#).

Section 1 of NRS 683A.361 would prohibit a producer from paying a referral fee to someone who is *selling, soliciting, or negotiating* insurance in Nevada *unless* that person is appropriately licensed.

Section 4 of NRS 683A.361 would allow sharing commission or payment of a referral fee *only* to someone who is *not* licensed *and* who is *not* engaging in activities what would require licensure (i.e., someone who is actually selling, soliciting, or negotiating insurance).

“Sell”, “solicit”, and “negotiate” are defined as follows:

[NRS 683A.072](#) "Sell" defined. "Sell" means to exchange a contract of insurance, by any means, for money or its equivalent on behalf of an insurer.

[NRS 683A.074](#) "Solicit" defined. "Solicit" means to attempt to sell insurance or to ask *or urge* a person to apply for a *particular kind of insurance from a particular insurer*.

[NRS 683A.065](#) "Negotiate" defined. "Negotiate" means to confer directly with, or offer advice directly to, a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, if the person conferring or offering the advice sells insurance or obtains insurance from insurers or purchasers.

Whether an individual, by making the referral, is selling, soliciting, or negotiating insurance is entirely dependent on the particulars of the referral program. Further, even if the referral fee is paid to someone who is not licensed and who is not engaging in activities that would require licensure, the referral fee nonetheless must not violate NRS [686A.110](#), [686A.120](#), and [686A.130](#) concerning rebates and inducements.

The Division encourages that any referral fee program being developed be properly vetted and researched to ensure compliance with Nevada law and recommends the review of the above-referenced statutes and information prior to implementation.

The content of this correspondence is not intended to be legal advice or opinion. You should consult a private attorney for such legal advice or opinion.