

STEVE SISOLAK
Governor

STATE OF NEVADA

TERRY REYNOLDS
Director



BARBARA D. RICHARDSON
Commissioner

DEPARTMENT OF BUSINESS AND INDUSTRY

DIVISION OF INSURANCE

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**NOTICE OF INTENT TO ACT UPON REGULATION
LCB File No. R163-22
AND HEARING AGENDA**

The Nevada Division of Insurance (“Division”) is proposing the adoption of regulations pertaining to chapter(s) 687B of the Nevada Administrative Code (“NAC”). The hearing shall take place as follows:

Date: October 18, 2022
Time: 9:00 a.m.
Location: This meeting will be held virtually via Webex, which allows participation by video or telephone.*

To join by Webex, click on the URL and enter the meeting number and password when prompted.

URL: <https://doinv.webex.com/doinv/j.php?MTID=md72a80b7e481ac98b2e089cdb046313d>
Meeting Number: 2633 001 7369
Password: PanMmPj4V97

To join by telephone, call the toll-free number and enter the access code when prompted.

Phone-in Access: 1-844-621-3956 United States Toll Free
Access Code: 2633 001 7369

If you need help using Webex, visit <https://help.webex.com>.

Live public comment and written public comment will be taken as designated in the Hearing Agenda.

* There is no physical location designated for this hearing. Accordingly, any person planning to participate must participate by using the Webex link, for video access, or by calling the phone-in access for telephone access. Meeting materials are available on the Division’s website at: <https://doi.nv.gov/News-Notices/Regulations/>.

The purpose of the hearing is to solicit comments from interested persons on the general topic(s) that may be addressed in the proposed regulation; and to assist in determining whether the proposed regulation is likely to impose a direct and significant burden upon a small business or directly restricts the formation, operation, or expansion of a small business.

HEARING AGENDA

1. Open Hearing: R163-22.

2. Presentation of Proposed Regulation.

LCB File No. R163-22 – MEDICARE SUPPLEMENT PLANS.

A REGULATION relating to insurance; clarifying the applicability of certain provisions governing the replacement of a Medicare supplemental policy; providing for the posting of certain information relating to Medicare supplemental policies on the Internet; prohibiting certain activity during the open enrollment period for Medicare supplemental policy; and providing other matters properly relating thereto. A copy of the proposed regulation prepared by the Legislative Counsel is available by clicking on the following link: <https://www.leg.state.nv.us/Register/2022Register/R163-22P.pdf>

3. Public Comment.

The hearing officer will indicate when live public comment will be taken. Public comment may be limited to three minutes per speaker.

4. Close Hearing: R163-22.

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.

A copy of all materials relating to the proposal may be obtained by visiting the Division's internet website at <https://doi.nv.gov/News-Notices/Regulations/> or by contacting the Division (regs@doi.nv.gov or 775-687-0700). Members of the public who would like additional information about a proposed regulation may contact the Division by email to regs@doi.nv.gov. Members of the public are encouraged to submit written comments for the record no later than **October 13, 2022**. Persons wishing to comment upon the proposed actions of the Division may appear at the hearing via Webex or telephone and/or may address their comments, data, views, or arguments in written form, by email to regs@doi.nv.gov or by mail to 1818 E. College Parkway, Suite 103, Carson City, NV 89706.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify the Division of your request for reasonable accommodation in writing, no later than five (5) working days before the hearing via email to regs@doj.nv.gov.

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.

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

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

The regulation is needed to ensure Medicare supplement policies meet the minimum standards and requirements of federal law. When the Legislature passed Assembly Bill 250 (codified at NRS 687B.352), the provisions authorizing open enrollment for Medicare supplemental policies, enumerating prohibited acts, and requiring certain notice left open some questions about how such Medicare supplement plans are regulated. The purpose of this regulation is to answer those unanswered questions.

(2) What are the terms or substance of the proposed regulation? Provide a description of the subjects, issues and problems involved.

- a. The regulation clarifies that Medicare supplement plans issued during the open enrollment period established by NRS 687B.352 are replacement plans subject to the regulations already in force for replacement plans, including commission limits.
- b. The regulation requires the Division to publish a Medicare supplement replacement matrix to outline replacement plans available depending on the policyholder’s current Medicare supplement plan to simplify the permissible replacement options available to the policyholder to keep the benefit.
- c. The regulation prohibits a policyholder from being re-enrolled with the same insurer and the same plan by going from a non-standard rate to a standard rate, which has no substantive benefit to the policyholder but results in a surcharge.

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

This regulation will provide clarity to consumers, producers, and insurers regarding who is eligible to replace their Medicare Supplement policy, what type of replacement is permitted, and how these products are regulated.

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

There are no other regulations which address this problem.

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

No, there are no alternate forms of the regulation sufficient to address the problem.

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

This regulation allows policyholders an opportunity to switch Medicare supplement plans every year on their birthday with no underwriting, regardless of the state the policy was purchased in. It gives consumers more flexibility of coverage during retirement.

(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: Medicare supplement policyholders will be able to shop plans that better address their needs based on price, coverage, and network.
2. Long Term: Over the long term, Medicare supplement policyholders will be able to use their prior experiences to shop plans that better address their needs based on price, coverage, and network.

b. Insurance Business

1. Immediate: The regulation clarifies the Division's expectations of carriers and producers with regard to Medicare supplement plans, consistent with federal law, and ensures a level playing field for market competition.
2. Long Term: Same.

c. Small Businesses

1. Immediate: There is no economic impact to small business.
2. Long Term: There is no economic impact to small business.

d. Small Communities

1. Immediate: There is no economic impact to small communities.
2. Long Term: There is no economic impact to small communities.

e. Government Entities

1. Immediate: There is no economic impact to governmental entities.
2. Long Term: There is no economic impact to governmental entities.

(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: There is no adverse impact on the public.
2. Long Term: There is no adverse impact on the public.

b. Insurance Business

1. Immediate: This regulation will not create any adverse impact on the insurance

- business.
- 2. Long Term: This regulation will not create any adverse impact on the insurance business.

c. Small Businesses

- 1. Immediate: There are no adverse impacts to small businesses.
- 2. Long Term: There are no adverse impacts to small businesses.

d. Small Communities

- 1. Immediate: There are no adverse impacts to small communities.
- 2. Long Term: There are no adverse impacts to small communities.

e. Government Entities

- 1. Immediate: There are no adverse impacts to governmental entities.
- 2. Long Term: There are no adverse impacts to governmental entities.

- (9) What is the anticipated cost of the regulation, both direct and indirect? Provide a statement as to the cost of:
- a. Enactment: There are no additional costs for the enactment of this regulation.
 - b. Enforcement: There are no additional costs for the enforcement of this regulation.
 - c. Compliance: There are no additional costs for compliance of this regulation.

- (10) Provide a statement indicating whether the regulation establishes a new fee or increases an existing fee.

No new fees are established, and no existing fees are increased by this regulation.

- (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 conducted a survey of small businesses with regard to AB250. Data from this survey was evaluated by Division staff to determine whether the proposed regulation would have an impact on small business.

- (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 does not overlap or duplicate any regulations of other state or local governmental agencies.

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

This regulation is not required pursuant to federal law.

(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.

This question is not applicable as the regulation does not mirror or copy any existing federal regulation.

Notice of the hearing has been provided as follows:

By email to all persons on the Division's e-mail list for noticing of administrative regulations.
By email for posting by the Nevada State Library, Archives and Public Records Administrator.
By email for posting by the Nevada Legislature.
Published to the Nevada Legislature website: <https://leg.state.nv.us/>.
Published to the Division of Insurance website: <https://doi.nv.gov/>.
Published to the State of Nevada Public Notice website: <https://notice.nv.gov/>.

DATED this 14th day of September 2022.

BARBARA D. RICHARDSON
Commissioner of Insurance

By:



DAVID R. CASSETTY
Deputy Commissioner
With Delegation of Authority

STEVE SISOLAK
Governor

STATE OF NEVADA

TERRY REYNOLDS
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TO: David Cassetty
Deputy Commissioner

FROM: Barbara D. Richardson
Commissioner of Insurance

DATE: August 30, 2022

SUBJECT: Delegation of Authority in the Commissioner's Absence

I hereby issue a Delegation of Authority for you to act on my behalf when I am absent from the State September 6, 2022, through September 15, 2022. You are empowered to exercise all authority necessary to handle matters coming before the Division of Insurance, unless otherwise delegated.

BARBARA D. RICHARDSON
Commissioner of Insurance

NRS 679B.110 Delegation of powers.

1. The Commissioner may delegate to his or her deputy, examiner or an employee of the Division the exercise or discharge in the Commissioner's name of any power, duty or function, whether ministerial, discretionary or of whatever character, vested in or imposed upon the Commissioner.
2. The official act of any such person acting in the Commissioner's name and by his or her authority shall be deemed an official act of the Commissioner.

(Added to NRS by 1971, 1563; A [1991, 1615](#); [1993, 1898](#))

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

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

Medicare Supplement Regulation

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

1. BACKGROUND.

This regulation is needed to provide guidance about NRS 687B.352 (2021 Legis. Session, Assembly Bill 250), which became effective on January 1, 2022.

2. DESCRIPTION OF CONCERTED EFFORT TO DETERMINE IMPACT OF PROPOSED REGULATION. NRS 233B.0608(1).

The Division reviewed the Nevada statutes and regulations for Medicare supplemental plans, relevant federal laws, and a general survey sent to small businesses related to AB250.

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. METHODS USED TO DETERMINE IMPACT AND REASONS FOR CONCLUSION. NRS 233B.0608(3).

The Division evaluated the legislative history and language of NRS 687B.352, the Division reviewed the federal laws regarding the certification of Medicare supplemental health insurance policies (42 U.S.C. § 1395ss), and the Division considered results of a survey sent to producer associations and chambers of commerce through Survey Monkey to measure the overall impact of AB 250 on small businesses.

The intent of the statute was to establish an open enrollment period to give Nevada residents more options for Medicare supplemental plans, but this open enrollment had to align with federal law for Medicare supplement plans. So long as policyholders are not re-enrolled in the same plan with the same carrier with a different rate charged, Medicare supplement plans qualify as "replacement" plans regulated by the Division. The survey was not directly related to the proposed regulation but did assess small business concerns with AB250 in general. The portion of the survey that was deemed applicable to the proposed regulation was whether small businesses believed whether there would be an impact on their business, to which 94.4% responded there would be either no impact or a positive impact.

I, BARBARA D. RICHARDSON, Commissioner of Insurance for the State of Nevada, hereby 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 this statement is accurate. (NRS 233B.0608(3))

6/30/22
(DATE)


BARBARA D. RICHARDSON
Commissioner of Insurance

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

Medicare Supplement Regulation

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable

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

Not applicable.

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

Not applicable.

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

Not applicable.

I, BARBARA D. RICHARDSON, Commissioner of Insurance for the State of Nevada, hereby 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 this statement was prepared properly, and the information contained herein is accurate. (NRS 233B.0609(2))

6/30/22
(DATE)



BARBARA D. RICHARDSON
Commissioner of Insurance