

STEPHEN F. 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 WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS
AND WORKSHOP AGENDA**

The State of Nevada, Department of Business and Industry, Division of Insurance (“Division”) is proposing the adoption, amendment or repeal of regulations pertaining to chapter 686B of the Nevada Administrative Code (“NAC”). The workshop shall take place as follows:

Date: September 24, 2020

Time: 10:00 a.m.

Location: This meeting will be held via Webex.*

URL:

<https://doinv.webex.com/doinv/j.php?MTID=m4e842cdee5549a811e62b83e8c817bf5>

Meeting Number: 132 207 5121

Password: bJShTDfG664

Teleconference Number: 1-844-621-3956 United States Toll Free

Access Code: 132 207 5121

*Pursuant to Governor Sisolak’s March 22, 2020 Declaration of Emergency Directive 006 (extended by Declaration of Emergency Directive 029), the requirement contained in NRS 241.023.1(b) that there be a physical location designated for meetings of public bodies where members of the public are permitted to attend and participate is suspended in order to mitigate the possible exposure or transmission of COVID-19 (Coronavirus). Accordingly, anyone planning to participate must participate by using Webex. Meeting materials are available on the Division’s website at: <http://doi.nv.gov/News-Notices/Regulations/>.

The purpose of the workshop is to solicit comments from interested persons on the following 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. Please submit any written comments to regs@doi.nv.gov or rlkelly@doi.nv.gov no later than **September 21, 2020**.

LCB File No. R127-20. ACTUARIAL RATE REVIEW.

A regulation relating to insurance; prescribing requirements concerning the review of filed rates for health and dental plans; and providing other matters properly relating thereto.

A copy of all materials relating to the proposal may be obtained by visiting the Division's internet website at <http://doi.nv.gov> or by contacting the Division, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, (775) 687-0700. A reasonable fee for copying may be charged. Members of the public who would like additional information about a proposed regulation may contact Rhonda Kelly, (702) 486-4060, or rlkelly@doi.nv.gov.

Notice of the workshop was provided via electronic means as follows:

To all persons on the Division's e-mail list for noticing of administrative regulations.
To main public libraries in all Nevada counties and the Nevada State Library, Archives and Public Records Administrator.
Division of Insurance website: <http://doi.nv.gov>
Nevada Legislature website: <http://www.leg.state.nv.us>
State of Nevada Public Notice website: <http://www.notice.nv.gov>.

Members of the public who are disabled and require special accommodations or assistance are requested to notify the Division in writing, no later than five (5) working days before the workshop, via email to rlkelly@doi.nv.gov.

DATED this 8th day of September 2020.



BARBARA D. RICHARDSON
Commissioner of Insurance

State of Nevada
Department of Business and Industry
Division of Insurance

AGENDA

**September 24, 2020
10:00 a.m.**

This public workshop shall take place by Webex only.

URL :

<https://doinv.webex.com/doinv/j.php?MTID=m4e842cdee5549a811e62b83e8c817bf5>

Meeting Number: 132 207 5121

Password: bJShTDfG664

Teleconference Number: 1-844-621-3956 United States Toll Free

Access Code: 132 207 5121

1. Open Workshop: R127-20.
2. Presentation and Discussion of Proposed Regulation. (For Possible Action)

LCB File No. R127-20. ACTUARIAL RATE REVIEW.

A regulation relating to insurance; prescribing requirements concerning the review of filed rates for health and dental plans; and providing other matters properly relating thereto.

3. Public Comment.
4. Close Workshop: R127-20.

Supporting public material for this workshop may be requested from Rhonda Kelly, Legal Secretary II, Nevada Division of Insurance, by phone, (702) 486-4060, or email, rlkelly@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 Division in writing, no later than five (5) working days before the workshop via email to rlkelly@doi.nv.gov.

Notices for this workshop have been provided via electronic means as follows:

- To all persons on the Division's e-mail list for noticing of administrative regulations.
- To main public libraries in all Nevada counties and the Nevada State Library, Archives and Public Records Administrator.
- 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. R127-20

August 10, 2020

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

AUTHORITY: §1, NRS 679B.130, 686B.040 and 686B.112.

A REGULATION relating to insurance; prescribing requirements concerning the review of filed rates for health and dental plans; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires most insurers to file with the Commissioner of Insurance rates, rate increases and certain other information relating to rates. (NRS 686B.070) Existing law requires the Commissioner to perform an actuarial review of and consider each rate filing of certain health or dental plans. (NRS 686B.112) Existing federal regulations require that a state process for reviewing individual or small group health insurance rates must include an examination of certain factors and must meet certain requirements for public disclosure and input in order for the state process to be deemed an Effective Rate Review Program. (45 C.F.R. § 154.301) This regulation requires the actuarial review of rates for a health or dental plan offered for sale on the individual or small group market to meet the requirements prescribed by federal regulations for an Effective Rate Review Program.

Existing law generally authorizes the Commissioner to exempt, by rule, any segment of the insurance market from certain requirements concerning rate filings, including the requirement that health and dental plans must undergo an actuarial review. (NRS 686B.040) Existing law establishes general standards for evaluating the sufficiency of rates for insurance, including requirements that rates not be excessive, inadequate or unfairly discriminatory or have the effect of destroying competition or creating a monopoly. (NRS 686B.050) This regulation: (1) exempts health and dental plans that are not offered for sale on the individual or small group market from the requirement to undergo an actuarial review; and (2) provides that the Commissioner will review the rates of such plans to ensure that the rates meet the general requirements prescribed by state law.

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

1. An actuarial review conducted pursuant to NRS 686B.112 of rates filed for a health or dental plan issued pursuant to the provisions of chapter 689A, 689B, 689C, 695B, 695C, 695D or 695F of NRS that is offered for sale on the individual market or small group market must meet the requirements prescribed by 45 C.F.R. § 154.301 for an Effective Rate Review Program.

2. The Commissioner:

(a) Will not conduct an actuarial review pursuant to NRS 686B.112 of rates filed for a health or dental plan issued pursuant to the provisions of chapter 689A, 689B, 689C, 695B, 695C, 695D or 695F of NRS that is not offered for sale on the individual market or small group market; and

(b) Will review the rates filed for such a health or dental plan to determine compliance with the requirements of NRS 686B.050.

3. As used in this section, the terms “individual market” and “small group market” have the meanings ascribed to them in 45 C.F.R. § 154.102.

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

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

Rate Review of Non-ACA Health Plans Filings

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

1. BACKGROUND.

The Division of Insurance (“Division”) uses actuarial analysts, certified actuaries, or both to review rates filed for health and dental plans in Nevada. The reviews are similar, but certified actuaries provide more technical and comprehensive reviews. The use of actuarial analysts, certified actuaries, or both to review rates filed for health and dental plans was set up to meet provisions of the Patient Protection and Affordable Care Act (“ACA”) for the Division to attain the status of an “ACA Effective Rate Review Program.” In order to ensure that the costs of non-ACA health and dental plans do not increase, and to maintain rate review expertise at the Division consistent with NAIC standards, Division actuarial analysts continued performing rate reviews on non-ACA health and dental plans after the ACA took effect.

In the 2019 Legislative Session, the Division sought authority to allow the Commissioner to assess against an insurer the actual costs for an external actuarial review of a rate filing. LCB drafters modified the amendment by adding language to NRS 686B.112, subsection 1 requiring the Commissioner to perform an actuarial review for each rate filing of a health plan. *See* SB 86 (2019 Legis. Sess.). This statutory change requires all health products to be actuarially reviewed. However, not all rates filed for health and dental plans need such a technical and comprehensive review by an actuary to ensure a stable health insurance market.

The Commissioner has the authority by rule to exempt any person, class of persons, or any market segment from any requirement for rates and service organizations. NRS 686B.040.1. If the Commissioner does not exempt non-ACA health and dental plans from being actuarially reviewed, consumers will likely see an increase in insurance costs without experiencing a significant benefit to the market or product in general. This regulation is intended to allow the Commissioner to continue using the rate review process managed by the Division’s actuarial analysts. Thus, in lieu of the more costly actuarial review performed by a certified actuary, the Division’s actuarial analysts will review non-ACA health and dental plans filed under the authority of NRS Chapters 689A, 689B, 689C, 695B, 695C, 695D and 695F.

Given the impact to Nevada consumers, the Division believes it is appropriate and in the best interest of the health insurance market for the Division to continue managing the rate review process for non-ACA health and dental plans.

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

The impact of the this regulation was discussed by the Life and Health Section staff, and it was determined that since the intent of the regulation is to continue the Division of Insurance's practice of performing a rate review for all health and dental plan rate filings that are not subject to the ACA, this regulation would have no impact on Nevada's small businesses. Input from the public will be welcome during the Workshop and Hearing for this proposed 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).

This proposed regulation is intended to continue the Division's practice of performing actuarial reviews by certified actuaries on ACA health benefit plans and dental plans, and to continue to perform rate reviews by Division actuarial analysts on all other types of filed health and dental plan rates. This will ultimately not make any changes to the existing form of regulating Nevada's health and dental plans and will, therefore, have no impact on Nevada's small businesses.

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))

6/30/2020
(DATE)


BARBARA D. RICHARDSON
Commissioner of Insurance

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

Rate Review of Non-ACA Health Plans Filings

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

No comments were received prior to proposing this regulation, however small businesses will be afforded the opportunity to comment at the workshop and hearing. The language was discussed by the Division of Insurance Life and Health Section, and it was determined that this proposed regulation could not create any new impact on Nevada small businesses.

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).

The impact of the this regulation was discussed by the Life and Health Section staff, and it was determined that since the intent of the regulation is to continue the Division of Insurance's historical practice of performing a rate review for all health plan rate filings that are not subject to the ACA, this regulation would have no possible impact on Nevada's small businesses. Input from industry will be welcome during the Workshop and Hearing for the proposed regulation.

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

(a) BOTH ADVERSE AND BENEFICIAL EFFECTS.

(1) Adverse: None

(2) Beneficial: None

(b) BOTH DIRECT AND INDIRECT EFFECTS.

(1) Direct: None

(2) Indirect: None

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

No methods were considered to reduce the impact upon small business, as there is no direct or significant impact. This regulation continues the Division's practice of regulation on non-ACA based health and dental plan filings.

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

There will be no increased cost of enforcement, as this maintains the current form of insurance regulation on non-ACA filed health and dental plan rates.

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

DOES THE REGULATION CREATE NEW FEES OR CHANGE EXISTING FEES?

This proposed regulation does not create or change any existing fees.

HOW MUCH WILL BE GENERATED?

N/A

HOW WILL MONEY BE USED?

N/A

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

DOES THE REGULATION DUPLICATE ANY EXISTING FEDERAL, STATE OR LOCAL STANDARDS?

This proposed regulation does not duplicate any existing federal, state, or local standard.

IS IT MORE STRINGENT THAN ANY EXISTING FEDERAL, STATE OR LOCAL STANDARDS?

No, this proposed regulation is not more stringent than any existing federal, state, or local standard.

WHY IS IT NECESSARY?

During the 2019 Nevada Legislature, Senate Bill 86 added language to allow the Commissioner to assess for the actual costs of an outside actuarial review for a rate filing submitted for a health plan. Section 1 of NRS 686B.112 was also modified, adding the language “actuarial review” to apply to the review of all health plan filings.

The ACA requires actuarial reviews of all file rates for ACA health benefit plans for the state to qualify as an Effective Rate Review Program. Division actuarial analysts have the knowledge, training, and competence to conduct rate reviews on rates filed on non-ACA health and dental plans, to meet the statutory requirements of health and dental plan rate filings under NRS 686B.050 and 686B.060. Continuing to perform rate reviews on non-ACA filed health and dental plan will prevent an increase in the costs of these types of plans since a certified actuary is not needed to review the filing.

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

This proposed regulation was discussed by members of the Life and Health Section. Since the regulation is needed to continue the Division’s practice of performing a rate review on non-ACA filed health and dental plans by Division actuarial analysts, there would be no change from existing insurance regulation of these plans. The regulation is needed to provide the Commissioner’s

authority to exempt any requirements of NRS 686B.010 to 686B.1799 if the Commissioner finds their application unnecessary to achieve the purposes of those sections. Keeping the status quo by performing rate reviews benefits the state's insurance consumers and, therefore, there will be no impact on small businesses from the enactment of this regulation.

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))

6/30/2020
(DATE)


BARBARA D. RICHARDSON
Commissioner of Insurance