

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB FILE NO. R161-22I

**The following document is the initial draft regulation proposed
by the agency submitted on 06/30/2022**

**PROPOSED PERMANENT REGULATION OF THE
COMMISSIONER OF INSURANCE**

Date, 20__

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

AUTHORITY: NRS 679B.130;

A REGULATION relating to insurance; repealing sections of code which are obsolete.

Section 1. NAC 680A.110 to 680A.150 and NAC 680A.405 to 680A.410, inclusive are hereby repealed.

LEADLINES OF REPEALED SECTIONS

NAC 680A.110 **Conditions.**
NAC 680A.120 **License; fee.**
NAC 680A.130 **Special licenses.**
NAC 680A.140 **Inspection.**
NAC 680A.150 **Rental fees.**
NAC 680A.405 **Countersignatures: Generally.**
NAC 680A.410 **Countersignatures: Property and casualty insurance.**

Sec. 2. NAC 688C.020 to NAC 688C.040, inclusive, and NAC 688C.090 to 688C.120, inclusive are hereby repealed.

LEADLINES OF REPEALED SECTIONS

NAC 688C.020 **“Broker of viatical settlements” defined.**
NAC 688C.030 **“Business of viatical settlements” defined.**
NAC 688C.040 **“Chronically ill” defined.**
NAC 688C.090 **“Policy” defined.**
NAC 688C.095 **“Provider of viatical settlements” defined.**
NAC 688C.100 **“Purchaser of viatical settlements” defined.**

NAC 688C.110 “Terminally ill” defined.
NAC 688C.120 “Viatical settlement” defined.

Sec. 3. NAC 689C.100, 689C.170 to 689C.175, inclusive, and NAC 689C.205 and 689C.220 are hereby repealed.

LEADLINES OF REPEALED SECTIONS

NAC 689C.100 “Existing coverage” interpreted.
NAC 689C.170 Contents of disclosure form
NAC 689C.172 Disclosures in advertising and sales materials; inclusion of certain information in health benefit plan.
NAC 689C.175 Request for copy of disclosure.
NAC 689C.205 Disclosure of variance in premium rate.
NAC 689C.220 Requirement upon denial of coverage.

Sec. 4. NAC 690C.010 to 690C.040, inclusive, are hereby repealed.

LEADLINES OF REPEALED SECTIONS

NAC 690C.010 Definitions.
NAC 690C.020 “Commissioner” defined.
NAC 690C.030 “Provider” defined.
NAC 690C.040 “Service contract” defined.

Sec. 5. NAC 695B.035 is hereby repealed.

LEADLINES OF REPEALED SECTIONS

NAC 695B.035 Disclosures in advertising and sales materials; inclusion of certain information in contract for hospital or medical service.

Sec. 6. NAC 695C.125, 695C.135, 695C.137, 695C.290, and 695C.295 are hereby repealed.

LEADLINES OF REPEALED SECTIONS

NAC 695C.125 Application of health maintenance organization: Evaluation by Division of Public and Behavioral Health.

NAC 695C.135 Contract of insurance for health maintenance organization: Amount required; provision concerning insolvency of organization; notice of cancellation.

NAC 695C.137 Health maintenance organization: Reserves.

NAC 695C.290 Filing, contents and delivery of disclosure summarizing coverage by health maintenance organization.

NAC 695C.295 Disclosures in advertising and sales materials; inclusion of certain information in health care plan.

----- Deleted Sections Language -----

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NAC 680A.110 Conditions. (NRS 679B.130) Insurance companies licensed to do an insurance business in Nevada may merchandise any type of insurance permitted by the Division through any type of vending machine under the following conditions:

1. All policy forms must be filed with, and approved by, the Commissioner in accordance with the filing procedures for other policy forms.

2. Reasonable means, as determined by the Commissioner, must be provided for informing the prospective purchaser of the coverage and restrictions of the policy.

3. The name of the insurer, the location of its home office, the name of the responsible producer of insurance appointed by the insurer and his or her office address, and the serial number of the machine must be clearly displayed on each machine.

4. Prompt refund of money inserted in a defective machine and for which no insurance, or a lesser amount than paid for, must be provided to the applicant or prospective applicant.

5. Vending machines must be constructed and operated to retain a copy of the application showing the date of application, name and address of the applicant and of the beneficiary and the amount of insurance afforded by each policy issued.

6. All machines must be operated under the supervision of a producer of insurance appointed by the insurer issuing the policies.

7. Vending machines must be constructed and operated to affix the facsimile signature of the producer of insurance appointed by the insurer upon all policies issued therefrom, unless the producer of insurance appointed by the insurer is on the premises and personally countersigns them.

[Comm'r of Insurance, M-3 1st par. & subpars. 1 through 7, eff. 5-13-72] — (NAC A 5-27-92; R102-09, 1-28-2010)

NAC 680A.120 License; fee. (NRS 679B.130) No vending machine may be placed in use until an application has been made for a license for that machine, payment of all applicable fees has been made to the Division and the license has been issued.

[Comm'r of Insurance, M-3 1st par. & subpar. 8, eff. 5-13-72] — (NAC A 5-27-92; R103-09, 1-28-2010)

NAC 680A.130 Special licenses. (NRS 679B.130)

1. The Commissioner may issue a special vending machine license to the responsible agent. The license will apply to a specific machine or machines, and specify the name of the insurer and agent and the serial number or numbers of all machines included under that license.

2. The license is subject to annual continuation, expiration, suspension or revocation at the same time as the license of the agent.

3. Proof of the existence of a license for each vending machine in use may be required by the Commissioner.

[Comm'r of Insurance, M-3 1st par. & subpar. 10, eff. 5-13-72]

NAC 680A.140 Inspection. (NRS 679B.130) Each licensed agent shall cause each vending machine to be inspected and tested with reasonable frequency, but not less than once each 7 days. If a machine is not in good working condition the agent shall cause a notice to be prominently displayed on the machine indicating that it is out of order. The notice must be maintained as long as the condition exists.

[Comm'r of Insurance, M-3 1st par. & subpar. 9, eff. 5-13-72]

NAC 680A.150 Rental fees. (NRS 679B.130) The payment of excessive rental fees for insurance vending machines located in Nevada may result in withdrawal of approval by the Division of the forms authorized for use in the machines.

1. Fair and reasonable fees are:

(a) Where the annual premium volume is less than \$50,000, the maximum rental payment may not exceed 13 percent of gross sales.

(b) Where the annual premium volume is between \$50,000 and \$100,000, the maximum rental fee payment may not exceed 17 1/2 percent of gross sales.

(c) Where the annual premium volume is in excess of \$100,000, the maximum rental fee payment may not exceed 25 percent of gross sales.

2. A contract which provides for a flat guaranteed rental which exceeds the permitted percentage of premium income is void.

3. Any contract which binds an insurance company, its agents or representatives, the fee for which exceeds the rental fees permitted by this section, may not be renewed except for the rental fee authorized by this section.

[Comm'r of Insurance, M-3 part 2nd par., eff. 5-13-72]

NAC 680A.405 Countersignatures: Generally. (NRS 679B.130, 679B.136, 680A.300) The Commissioner will apply the provisions of chapter 719 of NRS to any countersignature that is required by NRS 680A.300.

(Added to NAC by Comm'r of Insurance by R115-02, eff. 3-18-2003)

NAC 680A.410 Countersignatures: Property and casualty insurance. (NRS 679B.130, 680A.300)

1. Countersignature fees and commissions may be negotiated for services required of a countersigning producer of insurance appointed by an insurer.

2. A countersigning producer of insurance appointed by an insurer shall maintain complete records of countersignature transactions, including daily reports, correspondence, names of agents and brokers who wrote the policies, and evidence of fees and commissions charged.

3. A countersigning producer of insurance appointed by an insurer shall handle normal problems arising between agents and customers, and is answerable to the Division for complaints and problems relating to policies which he or she has countersigned.

4. All commissions on property and casualty insurance which was sold by an agent or broker who is not licensed in Nevada and which covers a risk located in Nevada must be paid to a countersigning producer of insurance appointed by the applicable insurer.

[Comm'r of Insurance, PC-4, eff. 9-23-72] — (NAC A 5-27-92; R102-09, 1-28-2010)

NAC 688C.020 “Broker of viatical settlements” defined. (NRS 679B.130) “Broker of viatical settlements” has the meaning ascribed to it in NRS 688C.030.

(Added to NAC by Comm'r of Insurance by R180-03, eff. 11-15-2004)

NAC 688C.030 “Business of viatical settlements” defined. (NRS 679B.130) “Business of viatical settlements” has the meaning ascribed to it in NRS 688C.040.

(Added to NAC by Comm'r of Insurance by R180-03, eff. 11-15-2004)

NAC 688C.040 “Chronically ill” defined. (NRS 679B.130) “Chronically ill” has the meaning ascribed to it in NRS 688C.050.

(Added to NAC by Comm'r of Insurance by R180-03, eff. 11-15-2004)

NAC 688C.090 “Policy” defined. (NRS 679B.130) “Policy” has the meaning ascribed to it in NRS 688C.070.

(Added to NAC by Comm'r of Insurance by R180-03, eff. 11-15-2004)

NAC 688C.095 “Provider of viatical settlements” defined. (NRS 679B.130) “Provider of viatical settlements” has the meaning ascribed to it in NRS 688C.080.

(Added to NAC by Comm'r of Insurance by R120-06, eff. 9-18-2006)

NAC 688C.100 “Purchaser of viatical settlements” defined. (NRS 679B.130) “Purchaser of viatical settlements” has the meaning ascribed to it in NRS 688C.090.

(Added to NAC by Comm'r of Insurance by R180-03, eff. 11-15-2004)

NAC 688C.110 “Terminally ill” defined. (NRS 679B.130) “Terminally ill” has the meaning ascribed to it in NRS 688C.110.

(Added to NAC by Comm'r of Insurance by R180-03, eff. 11-15-2004)

NAC 688C.120 “Viatical settlement” defined. (NRS 679B.130) “Viatical settlement” has the meaning ascribed to it in NRS 688C.130.

(Added to NAC by Comm'r of Insurance by R180-03, eff. 11-15-2004)

NAC 689C.100 “Existing coverage” interpreted. (NRS 679B.130, 689C.190) For the purposes of subsection 2 of NRS 689C.190, the Commissioner will interpret “existing coverage”

as not including coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, automobile medical payment insurance, accident insurance only policies, credit insurance, plans for dental care, optometric plans, coverage provided as a supplement to Medicare, coverage for long-term care, disability income or specified disease, hospital confinement indemnity, or limited benefit health insurance if the requirements of NRS 689C.105 are satisfied.

(Added to NAC by Comm'r of Insurance, eff. 3-28-96)

NAC 689C.170 Contents of disclosure form. (NRS 679B.130, 689C.203, 689C.270) The disclosure required to be filed with the Commissioner pursuant to NRS 689C.270 must be on a form which is in at least 10-point type and include:

1. The name, address and telephone number of the carrier;
2. The name, address and telephone number of the agent, broker and administrator, if applicable;
3. A statement describing the principal benefits and the type of coverage provided; and
4. A description of any provision of the policy which significantly excludes, eliminates, reduces or limits the payment of benefits, including limitations on access to an emergency room, requirements concerning prior authorization, and limitations relating to the use of preferred or other providers.

(Added to NAC by Comm'r of Insurance, eff. 3-28-96)

NAC 689C.172 Disclosures in advertising and sales materials; inclusion of certain information in health benefit plan. (NRS 679B.130, 689C.203, 689C.270)

1. As part of the disclosure required by NRS 689C.270, a carrier serving small employers shall disclose in the advertising and sales materials that the carrier provides to small employers:

- (a) The term of the contract applicable to the premium rates;
- (b) A general description of the underwriting factors that the carrier used to calculate premiums; and
- (c) A description of the class of business in which the small employer is included.

2. A carrier serving small employers shall include a copy of the information described in paragraph (c) of subsection 1 in the health benefit plan that the carrier provides to an insured.

(Added to NAC by Comm'r of Insurance by R009-02, eff. 5-23-2002; A by R009-02, 7-11-2002)

NAC 689C.175 Request for copy of disclosure. (NRS 679B.130, 689C.203) On behalf of a small employer, a producer may request a copy of the disclosure required to be filed with the Commissioner pursuant to NRS 689C.270.

(Added to NAC by Comm'r of Insurance by R224-97, eff. 11-16-98)

NAC 689C.205 Disclosure of variance in premium rate. (NRS 679B.130, 689C.155, 689C.203) If a carrier serving small employers quotes a premium rate for a health benefit plan to a producer or a small employer who seeks health insurance coverage from the carrier, the carrier shall disclose how much the premium rate may vary from the quoted premium rate because of the health status of a person to be covered by the health insurance.

(Added to NAC by Comm'r of Insurance by R224-97, eff. 11-16-98)

NAC 689C.220 Requirement upon denial of coverage. (NRS 679B.130, 689C.155, 689C.203) If a carrier serving small employers denies coverage in a health

benefit plan to a small employer on the basis of a risk characteristic, the denial must be in writing and state the reasons for the denial, subject to any restrictions related to confidentiality of medical information.

(Added to NAC by Comm'r of Insurance, eff. 3-28-96)

NAC 690C.010 Definitions. (NRS 690C.300) As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 690C.020, 690C.030 and 690C.040 have the meanings ascribed to them in those sections.

(Added to NAC by Comm'r of Insurance by R195-99, eff. 1-27-2000)

NAC 690C.020 “Commissioner” defined. (NRS 690C.300) “Commissioner” means the Commissioner of Insurance.

(Added to NAC by Comm'r of Insurance by R195-99, eff. 1-27-2000)

NAC 690C.030 “Provider” defined. (NRS 690C.300) “Provider” has the meaning ascribed to it in NRS 690C.070.

(Added to NAC by Comm'r of Insurance by R195-99, eff. 1-27-2000)

NAC 690C.040 “Service contract” defined. (NRS 690C.300) “Service contract” has the meaning ascribed to it in NRS 690C.080.

(Added to NAC by Comm'r of Insurance by R195-99, eff. 1-27-2000)

NAC 695B.035 Disclosures in advertising and sales materials; inclusion of certain information in contract for hospital or medical service. (NRS 679B.130, 695B.172, 695B.280)

1. As part of the disclosure required by NRS 695B.172, an insurer shall disclose in the advertising and sales materials that the insurer provides to employers:

(a) The term of the contract applicable to the premium rates;

(b) A general description of the underwriting factors that the insurer used to calculate premiums; and

(c) A description of the class of business in which the employer is included.

2. An insurer shall include a copy of the information described in paragraph (c) of subsection 1 in the contract for hospital or medical service that the insurer provides to a subscriber.

(Added to NAC by Comm'r of Insurance by R009-02, eff. 5-23-2002; A by R009-02, 7-11-2002)

NAC 695C.125 Application of health maintenance organization: Evaluation by Division of Public and Behavioral Health. (NRS 439.200, 679B.130, 695C.080)

1. The Division of Public and Behavioral Health shall study each application for a certificate of authority to establish and operate a health maintenance organization and give the State Board of Health the opinion whether or not the applicant has:

(a) Adequate arrangements in his or her health maintenance organization to provide health care; and

(b) Adequate procedures established to develop, compile, evaluate and report statistical data concerning:

(1) The cost of its operations;

- (2) The pattern of utilization, availability and accessibility of its services; and
- (3) Such other matters as the Board may reasonably require.

2. The Division of Public and Behavioral Health shall present the results of the study, along with the application and other relevant documents, to the State Board of Health as soon as practicable.

3. The applicant may be represented at the meeting of the State Board of Health.

[Bd. of Health, Health Maintenance Plans Art. 2, eff. 4-11-80]—(NAC A 11-1-95; A by Comm’r of Insurance by R148-99, 1-27-2000)

NAC 695C.135 Contract of insurance for health maintenance organization: Amount required; provision concerning insolvency of organization; notice of cancellation. (NRS 679B.130)

1. Each health maintenance organization shall obtain a contract of insurance for the cost of providing basic health care services which exceed in the aggregate:

(a) For a health maintenance organization in operation for 2 years or less, \$30,000 per enrollee per year;

(b) For a health maintenance organization in operation for more than 2 years which has a free surplus of \$2,000,000 or less, \$50,000 per enrollee per year;

(c) For a health maintenance organization in operation for more than 2 years which has a free surplus of more than \$2,000,000, \$100,000 per enrollee per year;

(d) For a health maintenance organization in operation for more than 3 years which has a free surplus of more than \$4,000,000, \$150,000 per enrollee per year; and

(e) For a health maintenance organization in operation for more than 5 years which has a free surplus of more than \$8,000,000, \$200,000 per enrollee per year.

2. The contract of insurance must include a provision that, in the case of the insolvency of the health maintenance organization, the insurer will pay all claims made by an enrollee for the period for which a premium has been paid to the health maintenance organization. The contract may have an aggregate limit of \$5,000,000 but must specifically provide for the:

(a) Continuation of benefits to enrollees for the period for which the subscribers have made prepayments to the health maintenance organization;

(b) Continuation of benefits for those enrollees confined in a medical facility or facility for the dependent at the time of the insolvency of the health maintenance organization until the enrollee is discharged from the facility; and

(c) Payment of a provider not affiliated with the health maintenance organization who provided medically necessary services, as described in the evidence of coverage, to an enrollee.

3. Any contract of insurance obtained by a health maintenance organization under this section may be cancelled only after 90 days’ written notice of the cancellation is given to the Division by the health maintenance organization and its insurer.

4. As used in this section:

(a) “Basic health care services” includes hospitalization but excludes any benefits under an optional plan for dental, vision or pharmaceutical benefits.

(b) “Free surplus” means the total capital and surplus, as reported on the National Association of Insurance Commissioners’ form of annual statement.

(Added to NAC by Comm’r of Insurance, eff. 6-11-86; A 5-27-92; R129-96, 10-29-97; R148-99, 1-27-2000; R248-03, 11-12-2004)

NAC 695C.137 Health maintenance organization: Reserves. (NRS 679B.130)

1. After the first year of operation, as a protection against insolvency, each health maintenance organization shall retain as reserves an amount equal to twice its actual average monthly uncovered expenditures for the previous year of operation or \$500,000, whichever is greater.

2. A health maintenance organization may not reduce the reserves for protection against insolvency unless it notifies the Commissioner in writing and receives his or her written approval of the reduction. Any unauthorized reduction in this reserve creates a presumption that the health maintenance organization is in an unsound financial condition.

3. All reserves maintained by a health maintenance organization pursuant to this section:

(a) Must be deposited in a trust account in a bank chartered by this State or a bank that is a member of the Federal Reserve System and has been approved by the Commissioner. All income earned by the account belongs to the health maintenance organization and may be credited and paid to the health maintenance organization and used for its operations.

(b) Are in addition to those reserves established by the health maintenance organization according to good business and accounting practices for incurred but not reported claims and other similar claims.

(Added to NAC by Comm'r of Insurance, eff. 6-11-86; A by R148-99 & R194-99, 1-27-2000)

NAC 695C.290 Filing, contents and delivery of disclosure summarizing coverage by health maintenance organization. (NRS 679B.130, 695C.193)

1. Each health maintenance organization shall file with the Commissioner, for his or her approval, a disclosure summarizing the coverage provided by a group health care plan offered by the health maintenance organization.

2. The disclosure must:

(a) Be in at least 10-point type;

(b) Include the name, address and telephone number of the health maintenance organization;

(c) Include the name, address and telephone number of the agent, broker and administrator, if applicable;

(d) Include a statement describing the principal benefits and the type of coverage being provided;

(e) Include a description of any provision of the health care plan which significantly excludes, eliminates, reduces or in any other manner operates to limit the payment of the benefits;

(f) Include a statement concerning the renewal provisions of the health care plan; and

(g) Define the term "usual and customary" or any similar term used in the plan.

3. The agent for the organization, the organization after a response to a direct-response solicitation or the broker representing the group policyholder shall deliver the approved disclosure summary to the proposed group policyholder as provided in NRS 695C.195.

(Added to NAC by Comm'r of Insurance, eff. 2-21-90)

NAC 695C.295 Disclosures in advertising and sales materials; inclusion of certain information in health care plan. (NRS 679B.130, 695C.193)

1. As part of the disclosure required by NRS 695C.193, an organization shall disclose in the advertising and sales materials that the organization provides to employers:

(a) The term of the contract applicable to the premium rates;

(b) A general description of the underwriting factors that the organization used to calculate premiums; and

(c) A description of the class of business in which the employer is included.

2. An organization shall include a copy of the information described in paragraph (c) of subsection 1 in the health care plan that the organization provides to an enrollee.

(Added to NAC by Comm'r of Insurance by R009-02, eff. 5-23-2002; A by R009-02, 7-11-2002)