

**ADOPTED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R097-10

Effective December 31, 2010

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

AUTHORITY: §1, NRS 679B.130 and 679B.136; §2, NRS 679B.130, 679B.136 and 687B.120; §3, NRS 679B.130, 689A.655, 689A.740, 689C.155 and 689C.157; §4, NRS 679B.130.

A REGULATION relating to insurance; revising requirements relating to the filing of various rates, rules or forms; revising requirements relating to the payment of various fees; repealing requirements relating to the filing of various plans; and providing other matters properly relating thereto.

Section 1. NAC 686B.100 is hereby amended to read as follows:

686B.100 *1.* Any *rate, rule or form* required to be filed pursuant to the provisions of chapter 686B of NRS ~~[may]~~ *must* be filed in accordance with the System for Electronic Rate and Form Filing developed and implemented by the National Association of Insurance Commissioners.

2. Any fee required when filing a rate, rule or form pursuant to NRS 680B.010 must be paid using the Electronic Funds Transfer function within the System for Electronic Rate and Form Filing.

Sec. 2. NAC 687B.004 is hereby amended to read as follows:

687B.004 *1.* Any form required to be filed pursuant to the provisions of NRS 687B.120 ~~[~~
~~—1.—Must]~~ *must* be filed in accordance with ~~[the current bulletin issued by the Division that addresses life and health form filing procedures and with the National Association of Insurance~~

~~Commissioners’ “Uniform Life, Accident and Health, Annuity, Credit Transmittal Document,” which is required to be filed pursuant to that bulletin; and~~

~~2. May be filed in accordance with~~ the System for Electronic Rate and Form Filing developed and implemented by the National Association of Insurance Commissioners.

2. Any fee required when filing a rate, rule or form pursuant to NRS 680B.010 must be paid using the Electronic Funds Transfer function within the System for Electronic Rate and Form Filing.

Sec. 3. NAC 689A.435 and 689C.125 are hereby repealed.

Sec. 4. This regulation becomes effective on December 31, 2010.

TEXT OF REPEALED SECTIONS

689A.435 Filing of basic and standard health benefit plans with Commissioner. (NRS 679B.130, 689A.655, 689A.740) An individual carrier that is required to file with the Commissioner its basic health benefit plans and standard health benefit plans pursuant to NRS 689A.655 shall comply with the filing procedures set forth in the current bulletin issued by the Division that addresses life and health form filing procedures and shall stamp “HIPAA” on the National Association of Insurance Commissioners’ “Uniform Life, Accident and Health, Annuity, Credit Transmittal Document,” which is required to be filed pursuant to that bulletin.

689C.125 Filing of basic and standard health benefit plans with Commissioner. (NRS 679B.130, 689C.155, 689C.157) A carrier that is required to file with the Commissioner its

basic health benefit plans and standard health benefit plans pursuant to NRS 689C.157 shall comply with the filing procedures set forth in the current bulletin issued by the Division that addresses life and health form filing procedures and shall stamp “HIPAA” on the National Association of Insurance Commissioners’ “Uniform Life, Accident and Health, Annuity, Credit Transmittal Document,” which is required to be filed pursuant to that bulletin.

NOTICE OF ADOPTION OF PROPOSED REGULATION

The Commissioner of Insurance adopted regulations assigned LCB File No. R097-10 which pertain to chapters 686B and 687B of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

A workshop was held on October 8, 2010, and a hearing was held on October 22, 2010, at the Nevada State Health Division, 3rd Floor Hearing Room, 4150 Technology Way, Carson City, Nevada, with a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, 2nd Floor Conference Room, Las Vegas, Nevada 89104, regarding the adoption of the regulation relating to the mandatory electronic filing of required rates, rules or forms and mandatory use of the electronic funds transfer (EFT) function.

Public comment was solicited by posting notice of the hearing in the following public locations: the Division's Carson City and Las Vegas offices, Carson City Courthouse, Office of the Attorney General, Capitol Building Lobby, Capitol Building Press Room, Blasdel Building, and Legislative Counsel Bureau; and by providing notice of the hearing to the Donald W. Reynolds Press Center, Nevada State Library, Carson City Library, Churchill County Library, Clark County District Library, Douglas County Library, Elko County Library, Esmeralda County Library, Eureka Branch Library, Humboldt County Library, Lander County Library, Lincoln County Library, Lyon County Library, Mineral County Library, Pershing County Library, Storey County Library, Tonopah Public Library, Washoe County Library, and White Pine County Library.

The Division maintains a list of interested parties, comprised of the Commissioner's Property & Casualty Advisory Committee, trade group representatives, insurance companies, agencies and other interested parties. The persons on these lists were notified of the workshop and hearing and were sent a copy of the proposed regulation, or were notified of the hearing and that copies of the proposed regulation could be obtained from or examined at the offices of the Division in Carson City or viewed on the Division's Web site.

The hearing was attended by two Division of Insurance ("Division") employees in Carson City. Oral testimony was provided by Elena Ahrens, Assistant Chief of the Property and Casualty Section, and Jack Childress, Actuary I of the Life and Health Section.

At the workshop, Elena Ahrens explained that the proposed regulation requires that any rate or form that must be filed pursuant to Chapter 686B of Nevada Revised Statutes and Nevada Revised Statute 687B.120 must be filed using the System for Electronic Rate and Form Filing system referred to as SERFF. Additionally, she explained that the proposed regulation mandates that payment for the filings must be made using the EFT function in SERFF. Ms. Ahrens outlined which types of filings are subject to the SERFF and EFT mandate. She also listed entities not subject to the mandate.

At the workshop, Ms. Ahrens announced that the draft regulation received from the Legislative Counsel Bureau contained formatting changes to the originally proposed regulation, but that there were no substantive changes made by LCB to the original intent.

At the workshop, Ms. Ahrens presented the proposed regulation for adoption as received from the Legislative Counsel Bureau, but with three additional proposed amendments. She proposed to amend Section 2, subsection 1 by deleting paragraph "A" entirely. She also proposed to repeal NAC 689A.435 and NAC 689C.125 which were Sections 3 and 4 of the LCB draft.

At the workshop, there was one person who provided an oral comment. John Mangan of American Council of Life Insurers expressed his support for the proposed regulation.

At the hearing, Ms. Ahrens presented for adoption the proposed regulation as presented at the workshop, including the additional amendments. There were no written or oral comments received at the hearing.

The Division recommends adoption of the proposed regulation as amended.

Economic effects on businesses:

Immediate and Long-term Beneficial Effects: Insurance companies will be able to introduce their products to market more quickly, thereby making products available to consumers sooner, providing for greater consumer choice and allowing insurance companies to react more quickly to changing market conditions.

Adverse effects: New users usually need training to effectively use SERFF. The NAIC encourages users to participate in a 2-day Webinar at a cost of \$475 per person. Alternatively, users may participate in a 2-hour overview of SERFF at no cost. Filing charges through SERFF thereafter are minimal and should be more than offset by the administrative cost savings of using the electronic system in lieu of a paper system. The number of users requiring training is limited as most insurers have already implemented SERFF and EFT.

Economic effects on the public:

Immediate and Long-term Beneficial Effects: Insurance companies will be able to introduce products to market more quickly, thereby making new and revised products available to consumers sooner.

Adverse effects: None

The estimated cost to the agency for the enforcement of the proposed regulation:

Minimal to none. After an appropriate implementation period, paper filings will not be accepted and will be returned to the company in an envelope provided by the company (self-addressed and stamped envelope is a current requirement for paper filings).

A description of and citation to any regulations of other state or local governmental agencies that the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary.

Twenty-three (23) states have already mandated that filings be submitted using SERFF and twelve (12) states have mandated the payment of filings be made using the EFT function within SERFF. Each state has different filing requirements such as “file and use” or “prior approval”. This proposed regulation mirrors the mandate requirement that filings be submitted electronically through SERFF, but not in the exact format as other states. Many states mandate SERFF by issuing bulletins or directives. Other states may need regulatory changes in the same manner as Nevada.

Based upon the testimony provided at the workshop and hearing, the proposed regulation, LCB File No. R097-10, was adopted as proposed with amendments. See Exhibit “A.”

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

IN THE MATTER OF THE

CAUSE NO. **10.0364**
LCB FILE NO. **R097-10**

**MANDATORY ELECTRONIC
FILING OF REQUIRED RATES,
RULES AND FORMS**

**SUMMARY OF PROCEEDINGS
AND ORDER**

SUMMARY OF PROCEEDINGS

A public workshop, as required by Nevada Revised Statute (“NRS”) 233B.061, on the proposed regulation relating to the mandatory electronic filing of required rates, rules or forms and the mandatory use of the electronic funds transfer (“EFT”) function was held before Amy L. Parks, Esq. (“Hearing Officer”), on October 8, 2010, at the hearing room located at the Health Division, 4150 Technology Way, Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, Nevada. A public hearing on the proposed regulation was also held before the Hearing Officer, on October 22, 2010, in Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, Nevada. The regulation is proposed under the authority of NRS 679B.130.

The hearing was attended by two individuals in Carson City representing the Division of Insurance (“Division”), Elena Ahrens and Jack Childress.

At the hearing, Ms. Ahrens summarized the workshop proceedings. She explained that the proposed regulation required that any rate or form that must be filed pursuant to Chapter 686B of Nevada Revised Statutes and Nevada Revised Statute 687B.120 must be filed using the System for Electronic Rate and Form Filing system referred to as SERFF. Additionally, she explained that the proposed regulation mandates that payment for the filings must be made using the EFT function in SERFF. She stated that currently, SERFF and the EFT function in SERFF

were optional. She added that approximately 99% of the property, casualty, life, health and annuity filings are currently submitted through the SERFF system.

At the workshop Ms. Ahrens outlined which types of filings are subject to the SERFF mandate, including life, health and annuity products, as well as property and casualty rates and forms, and workers' compensation rates. She also listed entities not subject to the mandate which include viatical settlement providers and brokers, title insurance underwriters and agencies, service contract providers, motor clubs, premium finance companies, insurers who submit workers' compensation forms, and any forms filed through the multi-state compact agreement. Ms. Ahrens encouraged all entities that file rates and forms with the Division to file using SERFF.

At the workshop Ms. Ahrens announced that the draft regulation received from the Legislative Counsel Bureau, LCB File No. R097-10 dated July 8, 2010, contained formatting changes to the originally proposed regulation, but that the Legislative Counsel Bureau ("LCB") made no substantive changes to the original intent.

At the workshop, Ms. Ahrens presented the proposed regulation for adoption as received from LCB, but with three additional proposed amendments. She proposed to amend Section 2, subsection 1 by deleting paragraph "A" entirely, and recited Section 2 with amended changes (see Exhibit "A"). She also proposed to repeal NAC 689A.435 and NAC 689C.125 which were Sections 3 and 4 of the LCB draft. She explained that this repeal eliminates the requirement in regulation that carriers and individual carriers of health comply with filing procedures set forth in the Division's current bulletin, Bulletin No. 06-009. She explained health carriers are aware of their duty to comply with Nevada law and this redundancy in regulation is not necessary.

At the workshop, and upon conclusion of the presentation of the proposed regulation by Division staff, the hearing officer asked if mandating SERFF would cause a burden on the remaining one percent of insurers that did not currently use SERFF. Ms. Ahrens replied that she did not believe this mandate would cause a burden, explaining that insurance products would be

introduced to market sooner using a real-time system. She explained that the costs associated with a paper filing, such as postage, paper and copy supplies, would be approximately the same as making a filing in SERFF. Jack Childress explained that mandating SERFF might cause a burden for viatical settlement providers and brokers, and that is why they were excluded from the mandate. The hearing officer then inquired about the Division's efforts to contact companies that did not use SERFF. Ms. Ahrens replied that on April 5, 2010, letters were sent to companies that did not use SERFF. Ms. Ahrens stated that the response from these insurers was positive and that currently only eight (8) property and casualty insurers are submitting filings by paper. Mr. Childress replied that life and health carriers that did not use SERFF were contacted by telephone. He indicated that the response from those companies was good and that most companies indicated that they will implement SERFF. Next, the hearing officer questioned the repeal of Sections 3 and 4, and whether the effective date proposed gives sufficient time for the insurers that need to implement SERFF. In response, Mr. Childress indicated that filing procedures and instructions are contained in SERFF itself. Ms. Ahrens added that there are very few insurers that need to implement SERFF, and that the December 31, 2010 effective date was probably sufficient.

At the workshop, there was one person who provided an oral comment. John Mangan of American Council of Life Insurers expressed his support of the proposed regulation and his pleasure about the high percentage of life insurers that currently submit filings through SERFF. When questioned by the hearing officer regarding the repeal of Sections 3 and 4, Mr. Mangan stated there is no question that life insurance companies would be required to submit filings using SERFF.

At the hearing, Ms. Ahrens presented for adoption the proposed regulation as presented at the workshop, including the additional amendments.

There were no written or oral comments received at the hearing.

