

LCB File No. R174-01

**PROPOSED REGULATION OF THE DIVISION OF INSURANCE
OF THE DEPARTMENT OF BUSINESS AND INDUSTRY**

NOTICE OF INTENT TO ACT UPON REGULATIONS

Notice of Hearing for the Adoption of Regulations
of the Department of Business and Industry, Division of Insurance

The Department of Business and Industry, Division of Insurance (Division) will hold a public hearing at 10:00 a.m., on December 13, 2001, immediately following a public workshop, at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701. Interested persons may also participate through a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Ave., Manufactured Housing Division Conference Room, Second Floor, Las Vegas, Nevada, 89104. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of:

**REGULATIONS CONCERNING THE COLLECTION, USE AND DISCLOSURE OF
INFORMATION ON TRANSACTIONS OF INSURANCE; SCHEDULE RATING; and
INSURANCE FOR MOTOR VEHICLES**

The following information is provided pursuant to the requirements of NRS 233B.060:

1. The proposed regulation is needed to address concerns regarding the collection, use and disclosure of information to rate insureds, to amend outdated regulations concerning schedule rating, and to clarify the definition and use of chargeable accidents.
2. The proposed regulation would require insurers to disclose when they place insureds in higher rated tiers, prohibit rating based on prior insurance with a nonstandard carrier, amend the provisions regarding schedule rating to apply only to insurance for medical malpractice and workers' compensation, and amend the definition of chargeable accident in monetary terms to be not less than \$300.
3. Estimated economic effect of the regulation:
On the business which it is to regulate:
The proposed regulation may have both an immediate and long-term impact on the industry if insurers must amend their rating rules or rating practices.
On the public:
The proposed regulations should have no economic impact on the public.
4. The Division may incur some additional expense to enforce the proposed regulation that cannot be measured at this time.
5. The Division is not aware of any overlap or duplication of the regulation with any state, local or federal regulation.

6. The proposed regulation does not establish any new fees or increase an existing fee.

Persons wishing to comment upon the proposed action of the Division may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701. Written submissions must be received by the Division on or before December 7, 2001. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions.

A copy of this notice and the proposed regulation will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulation will be available at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, and 2501 East Sahara Avenue, Suite 302, Las Vegas, Nevada 89104, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the **State of Nevada Register of Administrative Regulations** which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will 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.

This notice of hearing has been posted at the following locations:

Department of Business and Industry
Division of Insurance
788 Fairview Drive, Suite 300
Carson City, NV 89701

Department of Business and Industry
Division of Insurance
2501 East Sahara Avenue, Suite 302
Las Vegas, NV 89104

Legislative Counsel Bureau
Capitol Complex
Carson City, NV 89710

Blasdel Building
Capitol Complex
Carson City, NV 89710

State Capitol
Capitol Complex
Carson City, NV 89710

Capitol Press Room
State Capitol Basement
Carson City, NV 89710

County Clerk
Courthouse
Carson City, NV 89710

Nevada State Library & Archives
Capitol Complex
Carson City, NV 89710

Carson City Library
900 North Roop Street
Carson City, NV 89701

Churchill County Library
553 South Maine Street
Fallon, NV 89406

Las Vegas Library
833 Las Vegas Blvd. North
Las Vegas, NV 89101

Douglas County Library
1625 Library Lane
P.O. Box 337
Minden, NV 89423

Elko County Library
720 Court Street
Elko, NV 89801

Goldfield Public Library
Fourth & Cook Street
P.O. Box 430
Goldfield, NV 89013

Eureka Branch Library
10190 Monroe Street
P.O. Box 293
Eureka, NV 89316

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445

Battle Mountain Branch Library
P.O. Box 141
Battle Mountain, NV 89820

Lincoln County Library
93 Main Street
P.O. Box 330
Pioche, NV 89043

Mineral County Library
First & A Street
P.O. Box 1390
Hawthorne, NV 89415

Lyon County Library
20 Nevin Way
Yerington, NV 89447

Tonopah Public Library
171 Central Street
P.O. Box 449
Tonopah, NV 89049

Pershing County Library
1125 Central Avenue
P.O. Box 781
Lovelock, NV 89419

Storey County Library
95 South R Street
P.O. Box 14
Virginia City, NV 89440

Washoe County Library
301 South Center Street
P.O. Box 2151
Reno, NV 89505

White Pine County Library
950 Campton Street
Ely, NV 89301

Clark County Library
1401 East Flamingo Road
Las Vegas, NV 89119

Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify the Commissioner's secretary in writing at 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, or by calling no later than 5 working days prior to the hearing, (702) 687-4270, extension 260.

DATED this _____ day of _____, 2001.

By:

ALICE A. MOLASKY-ARMAN
Commissioner of Insurance

LCB File No. R174-01

**PROPOSED REGULATION OF THE DIVISION OF INSURANCE
OF THE DEPARTMENT OF BUSINESS AND INDUSTRY**

**REGULATIONS FOR COLLECTION, USE AND DISCLOSURE OF INFORMATION
ON TRANSACTIONS OF INSURANCE; SCHEDULE RATING; and
INSURANCE FOR MOTOR VEHICLES;**

Authority: NRS 679B.130 and NRS 679B.150

Sec. 1. NAC 679B.565 is hereby amended to read as follows:

1. “Adverse underwriting decision” means any of the following actions involving insurance transactions with individually underwritten insurance coverage:

(a) A declination of insurance coverage.

(b) A termination of insurance coverage.

(c) Failure by an agent to apply for insurance coverage with a specific insurance institution which the agent represents and which was requested by an applicant.

(d) For property or casualty insurance coverage:

(1) Placement by an insurance institution or agent of an insured person with a residual market mechanism, an unauthorized insurer as described in chapter 685B of NRS or an insurance institution that specializes in substandard risks; or

(2) Placement by an insurance institution or agent of an insured person into a higher rated tier upon renewal or anything but the tier with the lowest rates upon application; or

~~[(2)]~~ (3) Charging a higher rate on the basis of information which differs from information obtained from the applicant or policyholder.

(e) An offer to insure at higher than standard rates for life, health or disability insurance coverage.

2. The following actions are not considered to be adverse underwriting decisions:

(a) The termination of an individual policy form on a class or statewide basis.

(b) A declination of insurance coverage solely because the coverage is not available on a class or statewide basis.

(c) The rescission of a policy.

Sec. 2. NAC 679B.725 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, no insurance institution or agent may base an adverse underwriting decision in whole or in part on:

(a) A previous adverse underwriting decision;

(b) Insurance coverage previously obtained by a natural person through a residual market mechanism; ~~or~~

(c) Insurance coverage previously obtained by a natural person through a non-standard carrier; or

~~(e)~~ (d) Personal information received from an insurance support organization whose primary source of information is insurance institutions.

2. An insurance institution or agent may base an adverse underwriting decision on additional:

(a) Information obtained from an insurance institution or agent responsible for the previous adverse underwriting decision; or

(b) Personal information received from the insurance support organization.

Sec. 3. NAC 686B.400 is hereby amended to read as follows:

As used in NAC 686B.400 to ~~686B.460~~ **686B.450**, inclusive, unless the context otherwise requires, the words and terms defined in NAC ~~686B.405~~ **686B.425** to 686B.430, inclusive, have the meanings ascribed to them in those sections.

Sec. 4. NAC 686B.610 is hereby amended to read as follows:

1. For the purposes of this section, “schedule rating” means application of judgment credits and debits to the risk rate or premium charge which has been developed through the use of base rate or class rate modified by:

(a) Package discounts where applicable; and

(b) Any other approved rating plan which does not duplicate credits or debits.

2. The commissioner will accept individual risk premium modification plans if:

(a) Schedule rating factors apply only to individual risk characteristics which reflect potential hazards.

(b) Schedule rating applies only to risks which develop at least ~~500~~ **3,000** annual premium ~~for \$1,500 3-year prepaid premium. When schedule credits are being applied, the resulting premium must be \$500 or more for 1 year, or \$1,500 or more for 3 years.~~

(c) The schedule rating plan must provide for debits and credits, and is subject to maximum total debits or credits of 25 percent.

~~[(d) No risk may be modified except after inspection of the property. The insurer shall retain adequate supporting data, including copies of inspection reports, which may be inspected by the division.]~~

3. Each filing of an individual risk premium modification plan must be accompanied by a statement by the filing official affirming that the filing conforms to the provisions of this section.

4. This section ~~[does not apply to automobile liability, automobile physical damage, general liability, burglary, glass, fidelity or boiler and machinery rating plans]~~ *applies only to medical professional liability insurance and workers' compensation insurance.*

Sec. 5. Chapter 690B of NAC is hereby amended by adding a new section to read as follows:

A policy of insurance for automobiles issued or delivered in this state may not contain a provision that reduces the limits of liability for bodily injury or property damage to an amount lower than the limits selected by the insured in the event that the motor vehicle is involved in an accident while it is being operated by a driver other than the insured.

Sec. 6. NAC 690B.230 is hereby amended to read as follows:

1. For underwriting, rating, cancellation, or nonrenewal of insurance for automobiles, an insurer, *if he considers accidents*, may *only* consider ~~[any]~~ chargeable accidents.

2. Each insurer shall file with the division its definition of a "chargeable accident" and shall use the filed definition. The insurer's definition of a "chargeable accident" may include only those accidents for which the insured is 50 percent or more at fault.

3. Each filing of a rate for insurance for automobiles submitted to the division must define a "chargeable accident" in terms of a monetary amount of damage *of not less than \$300*.

4. An insurer may not define a claim made under the comprehensive portion of the policy as a chargeable accident in order to cancel the policy, but he may use a series of such claims to discontinue comprehensive coverage, to offer a higher deductible upon the renewal of a policy, or to add a surcharge to the premium for the policy.

Sec. 7. NAC 679B.0395, 679B.565, 686B.405, 686B.409, 686B.415, 686B.420, 686B.440, 686B.445, 686B.455, 686B.460 are hereby repealed.