PROPOSED REGULATION OF THE

COMMISSIONER OF INSURANCE

LCB File No. R174-01

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

AUTHORITY: §§1-9, NRS 679B.130.

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

679B.565 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 applicant for insurance into a tier other than the tier with the lowest rates, at the time the applicant submits his application for coverage;***

(3) Placement by an insurance institution or agent of an insured person into a tier with higher rates than the tier into which the insured person was previously placed if the insured person is applying for renewal of the policy; or

(4) 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:

679B.725 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 from a nonstandard carrier;***

(d) A score or other type of assessment based on the credit history of an applicant for insurance or an insured; or

(e) 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.

3. For the purposes of this section, "nonstandard carrier" means an insurance institution that provides motor vehicle liability insurance that is not standard with respect to its coverage or form, including, without limitation, insurance issued to a person who poses a unique, unusual or very high exposure to liability because of his poor premium payment history, driving experience, traffic violations, occupation or type or age of vehicle.

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

686B.400 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 to 686B.430, inclusive,]~~ ***686B.425 and 686B.430*** have the meanings ascribed to them in those sections.

Sec. 4. NAC 686B.435 is hereby amended to read as follows:

686B.435 Except as otherwise provided in NRS 686B.040, NAC 686B.400 to ~~[686B.460,]~~ ***686B.450,*** inclusive, applies to:

1. Insurers writing the kinds and lines of direct insurance not exempted by NRS 686B.030; and

2. Insurers and rate service organizations making filings pursuant to NRS 686B.070.

Sec. 5. NAC 686B.610 is hereby amended to read as follows:

686B.610 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 ***for liability insurance for medical professionals or for workers’ compensation insurance*** 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 **.** ~~[or $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 ***for liability insurance for a medical professional or for workers’ compensation insurance*** 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.]~~

Sec. 6. NAC 686B.715 is hereby amended to read as follows:

686B.715 1. A filing of rates made pursuant to NRS 686B.070 must contain:

(a) The supporting data listed in NRS 686B.100 and NAC 686B.500.

(b) The following supporting data, which must be listed on the current "NV PC1" form which is available from the division:

(1) The name of the insurer.

(2) By territory, the percentage of change in the base rates for:

(I) Liability for bodily injury;

(II) Liability for property damage;

(III) Coverage for uninsured or underinsured motorists;

(IV) Medical payments;

(V) Comprehensive coverage; and

(VI) Collision coverage.

(3) If necessary, for each of those base rates, any changes in:

(I) Territory;

(II) Age, sex or marital status;

(III) Coverage for one vehicle or more than one vehicle; and

(IV) Use categories.

(4) The largest theoretical rate increase resulting from a combination of factors in subparagraph (3), a listing of the contribution of each component and the compound result of all components.

(5) If applicable, the adjustment of variable expenses to fixed expenses, commonly referred to as "expense flattening."

(6) If necessary, for each of the factors listed in subparagraph (3), a separate list of the factors for the balancing of increases and decreases of components to achieve a preselected overall change in rates, commonly referred to as “off-balance factors.”

(7) For each of the coverages listed in subparagraph (2), the written premium at current rates for a recent 12-month period and the requested change in rates indicated by percentage and amount in dollars.

(8) The total number of vehicles insured for bodily injury or property damage which are principally kept in this state and the percentage of those vehicles insured in each territory of the insurer. The commissioner may, at the request of the insurer, allow the information required by this paragraph to be submitted separately to the division and to be deemed confidential pursuant to subsection 5 of NRS 679B.190.

(9) The total number of vehicles insured and principally kept in this state.

(10) A statement by the insurer explaining why the filing meets the standards of NRS 686B.050 and 686B.060.

(11) A statement by the insurer describing the actions it has taken to reduce costs for motor vehicle insurance covering private passenger vehicles, including programs:

(I) To reduce the insurer’s own operational or other expenses.

(II) To reduce fraudulent claims.

(III) For the management of medical cases or other programs to contain medical costs.

(IV) To reduce the costs of repairing vehicles.

(V) For risk management, loss prevention, safety, and the training or education of drivers that are promoted by the insurer.

(c) A cover letter or filing memorandum which summarizes the filing and includes:

(1) A statement as to whether the policy allows the proration or other limitation of coverage, commonly referred to as the "stacking" of coverage for:

(I) Medical payments; or

(II) Uninsured and underinsured motorists.

(2) A verification that the insurer has complied with:

(I) Subsection 1 of NAC 690B.240;

(II) Subsections 2 and 3 of NRS 687B.145; and

(III) Division Bulletin No. 89-002.

(d) A statement concerning chargeable accidents which must include:

(1) A copy of the rules of the insurer concerning chargeable accidents; and

(2) An explanation as to how the dollar threshold was established for a chargeable accident.

(e) A list of all discounts required by Title 57 of NRS which an insurer offers on premiums with a reference to the page number in the manual of the insurer which describes the discount.

(f) A copy of the evidence of insurance provided to the insured pursuant to NRS 690B.023.

(g) If the filing is made by an insurer providing coverage for at least 15,000 vehicles principally kept in this state, a list of the 10 largest losses for each of the most recent 5 years, with the status of the claim as either open or closed for:

(1) Liability for bodily injury;

(2) Coverage for uninsured and underinsured motorists; and

(3) Coverage for medical payments.

(h) A distribution of policy limits by the number of insureds for:

(1) Liability for bodily injury;

(2) Coverage for uninsured or underinsured motorists; and

(3) Coverage for medical payments.

(i) A distribution of the number of insured vehicles with:

(1) Collision coverage;

(2) Comprehensive coverage; and

(3) Collision and comprehensive coverage.

(j) The description of each territory used by the insurer.

(k) The ratios which compare the base rates of the insurer for the lowest and highest rated territories for:

(1) Liability for bodily injury;

(2) Coverage for uninsured and underinsured motorists;

(3) Coverage for medical payments;

(4) Comprehensive coverage; and

(5) Collision coverage.

(l) Actuarial exhibits which demonstrate generally accepted actuarial principles, including:

(1) Actuarial models used in the filing;

(2) Indications of necessary rate level changes;

(3) Credibility models;

(4) Development of trend factors;

(5) Development of relativity factors;

(6) Loss development triangles;

(7) Loss development factors;

(8) Permissible loss ratios; and

(9) Other actuarial data relevant to the filing.

(m) An index of all exhibits and documents included in the filing.

2. The provisions of this section do not apply to the filing of prospective loss costs by a licensed rate service organization. As used in this subsection, "prospective loss costs" has the meaning ascribed to it in ~~[NAC 686B.415.]~~ ***NRS 686B.17605.***

Sec. 7. Chapter 690B of NAC is hereby amended by adding thereto a new section to read as follows:

An owner's policy of liability insurance for a motor vehicle issued or delivered in this state must not contain a provision that sets the limits of liability for bodily injury or property damage for an accident in which a person other than the insured operated the vehicle in an amount below the limits of liability selected by the insured for an accident in which the insured operated the motor vehicle.

Sec. 8. NAC 690B.230 is hereby amended to read as follows:

690B.230 1. For underwriting, rating, cancellation ~~[,]~~ or nonrenewal of insurance for automobiles, an insurer ***, if he considers accidents,*** may consider ~~[any chargeable accident.]~~ ***only 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. 9. NAC 679B.0395, 686B.405, 686B.409, 686B.415, 686B.420, 686B.440, 686B.445, 686B.455 and 686B.460 are hereby repealed.

TEXT OF REPEALED SECTIONS

679B.0395 Fee for returned check. The division will charge any person whose check is returned to the division because the person had insufficient money or credit with the drawee to pay the check or because the person stopped payment on the check a fee of $15.

686B.405 "Advisory prospective loss costs" defined. "Advisory prospective loss costs" means the prospective loss costs filed by a rate service organization with the commissioner.

686B.409 "Expenses" defined. "Expenses" means the portion of a rate that is attributable to the costs of acquisition, field supervision, collection expenses, general expenses, taxes, licenses and fees.

686B.415 "Prospective loss costs" defined. "Prospective loss costs" means the portion of a rate that is based on historical aggregate losses and loss adjustment expenses which are adjusted to their ultimate value and projected to a future point in time. Except as otherwise provided in this section, the term does not include provisions for expenses or profit.

686B.420 "Rate" defined. "Rate" means the cost of insurance per exposure unit and may be expressed as a single number or as prospective loss costs that include an adjustment to account for the treatment of expenses, profit and variations in loss experience before individual risk variations based on loss or expense are applied. The term does not include minimum premiums.

686B.440 Reference filings containing advisory prospective loss costs; requirements for filing of rates; adjustments to prospective loss costs.

1. A rate service organization may develop and make a reference filing containing advisory prospective loss costs.

2. The reference filing must:

(a) Contain statistical data and supporting information for any calculation or assumption underlying the prospective loss costs; and

(b) Be filed and effective in the same manner as rates filed pursuant to chapter 686B of NRS.

3. An insurer may make a filing of rates by:

(a) Becoming a participating insurer of a licensed rate service organization that makes reference filings of advisory prospective loss costs;

(b) Filing with the commissioner the information required by NAC 686B.445; and

(c) Authorizing the commissioner to accept a reference filing on its behalf.

4. The rates of the insurer must include:

(a) The prospective loss costs filed by the rate service organization pursuant to subsection 1; and

(b) Any adjustment to the prospective loss costs filed as required by NAC 686B.445 that are in effect for that insurer.

5. The filing of an adjustment to the prospective loss costs by an insurer becomes effective in the same manner as rates filed pursuant to chapter 686B of NRS.

686B.445 Requirements for filings that refer to reference filings of prospective loss costs.

1. A filing by an insurer that refers to a reference filing of prospective loss costs made by a rate service organization must include, in the following order, a reference filing adoption form and a summary of supporting information.

2. The reference filing adoption form is available from the Department of Business and Industry, Division of Insurance, 1665 Hot Springs Road, Carson City, Nevada 89710.

686B.455 Requirements for filing of final rate pages and submission of rates.

1. If the final rates of an insurer are determined by applying its adjustment to the prospective loss costs, as presented in the reference filing adoption form, to the prospective loss costs that are contained in the reference filing and printed in the rating manual of the rating organization, the insurer is not required to develop or file its final rate pages with the commissioner.

2. If an insurer prints and distributes final rate pages for its own use and the rates are based on the application of its filed adjustments to the prospective loss costs of a rating organization, the insurer must file those pages with the commissioner.

3. If a rating organization does not print prospective loss costs in its rating manual, the insurer must submit its rates to the commissioner.

686B.460 Refiling of previously approved rates not required; use of previously filed and approved rates and deviations.

1. Except as otherwise provided in subsection 2, NAC 686B.400 to 686B.460, inclusive, do not require a rate service organization or its participating insurers to refile a rate previously approved by the commissioner.

2. A participating insurer of a rate service organization may continue to use any rate or deviation filed and approved for its use until:

(a) The rates are disapproved; or

(b) The insurer makes its own filing to change its rate by making an independent filing or by filing a reference filing adoption form that adopts the prospective loss costs of a rate service organization or an adjustment to the prospective loss costs by the insurer.