

LCB File No. R091-03

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

**NOTICE OF WORKSHOPS TO SOLICIT COMMENTS ON
PROPOSED REGULATIONS**

February 11, 2004

The Department of Business and Industry, Division of Insurance (Division) is proposing new regulations pertaining to medical professional liability insurance for health care providers; and surplus lines brokers and the non-profit organization of surplus lines brokers. A workshop has been set for 9:00 a.m., on August 26, 2003, at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701. Interested parties may also participate through a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104. The purpose of the workshop is to solicit comments from interested persons on the following general topics addressed in the proposed regulations.

- 1. Medical Professional Liability Insurance – Risk Management Programs and Loss Prevention and Control Programs: Proposed regulation for the establishment of parameters of a “qualified” risk management system for certain health care providers; and establishment of a uniform reporting system of loss prevention and control reports by insurers of Medical Professional Liability Insurance for certain health care providers.**
- 2. Surplus Lines Brokers and the Non-Profit Organization of Surplus Lines Brokers. The proposed regulation includes requirements for each responsible surplus lines broker to include their signature and surplus lines brokers license number on the insurance contract under the disclosure stamp required by NRS 685A.090, changes to the record keeping and reporting requirements for surplus lines brokers to conform with recent changes to Nevada statutes, and changes to the fees charged and investment limitations of the Nevada Surplus Lines Association.**

Members of the insurance industry, business community, and the public are also invited to comment on any impact the proposed regulations may have on small businesses. The Division has reviewed the proposed regulations and determined that the regulation on risk management programs and loss control program reporting may impose a direct or significant impact on a small business, or directly affect the formation, operation, or expansion of a small business. The regulation on surplus lines brokers and the Nevada Surplus Lines Association should not impose a direct or significant impact on a small business, or directly affect the formation, operation, or expansion of a small business.

A copy of this notice and the proposed regulations 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 regulations will be available at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, and 2501 E. 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 regulations 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.

This Notice of Workshop to Solicit Comments on Proposed Regulations has been sent to all persons in the agency's mailing list for administrative regulations and 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 E. 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

Lyon County Library
20 Nevin Way
Yerington, NV 89447

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

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, (775) 687-4270, extension 260.

DATED this ____ day of July, 2003.

By: _____
ALICE A. MOLASKY-ARMAN
Commissioner of Insurance

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 9:00 a.m., on August 26, 2003, 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 Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104. The purpose of the hearing is to receive comments from interested persons regarding the adoption of:

REGULATIONS CONCERNING MEDICAL PROFESSIONAL LIABILITY INSURANCE – RISK MANAGEMENT PROGRAMS AND LOSS PREVENTION AND CONTROL PROGRAMS

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

- 1. The proposed regulation is needed to address concerns regarding implementation of a qualified risk management program as mandated by Senate Bill 250.**
- 2. The proposed regulation would require insurers of Medical Professional Liability Insurance to provide the Commissioner with an annual report of their Loss Prevention and Safety programs.**
- 3. Estimated economic effect of the regulation:**
On the business which it is to regulate:
The proposed regulation will have both an immediate and long-term impact on the industry as insurers must amend their rating rules or rating practices.
On the public:
The proposed regulation should have a positive 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 August 19, 2003. 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 E. 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
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2501 E. Sahara Avenue, Suite 302
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720 Court Street
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Fourth & Cook Street
P.O. Box 430
Goldfield, NV 89013

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P.O. Box 293
Eureka, NV 89316

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

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Yerington, NV 89447

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Hawthorne, NV 89415

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LCB File No. R091-03

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

**PROPOSED REGULATION REGARDING MEDICAL PROFESSIONAL LIABILITY
INSURANCE – RISK MANAGEMENT PROGRAMS AND LOSS
PREVENTION AND CONTROL PROGRAMS**

AUTHORITY: NRS 679B.130

Section 1. Chapter 690B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec 2. *“Risk management system” defined. As used in sections 3 through 5, inclusive, “risk management system” refers to a program designed to reduce the likelihood of claims and/or to improve the outcome of claims under a policy of professional liability insurance issued to a practitioner licensed pursuant to chapter 630 or 633 of NRS.*

Sec. 3. *A “qualified risk management system” shall be:*

- 1. A risk management system developed by the insurer or a third party to be applicable to the medical specialty for which credits are given; or*
- 2. Seminars or other training which provide instruction on risk management which meet Nevada standards for continuing medical education units; or*
- 3. A program of communication skills, documentation, informed consent, litigation management and/or similar risk management techniques for which compliance is verified periodically; and*
- 4. Filed with and approved by the commissioner.*

Sec. 4. *1. Each carrier issuing a policy of professional liability insurance to a practitioner licensed pursuant to chapter 630 or 633 of NRS must offer a qualified risk management system to each policyholder of professional liability insurance covering a practitioner licensed pursuant to chapter 630 or 633 of NRS.*

2. The rating plan of an insurer may include reasonable fees for providing risk management services.

3. The rating plan must provide for a reduction in the premium for the policy if the practitioner implements a qualified risk management system. At the option of the insurer, such reduction may be given at the inception of the policy period or at the end of the policy period after compliance with the system has been demonstrated.

4. All components of the rating plan, including, without limitation, the rules for administering the risk management program, must be filed with and approved by the commissioner.

Sec. 5. 1. *Each insurer that issues a policy of professional liability insurance to a practitioner licensed pursuant to chapter 630 or 633 of NRS must report on its loss prevention and control programs, including, without limitation, its qualified risk management systems on a form prescribed by the commissioner.*

2. The commissioner shall provide the form to each insurer on or before May 1 of each year.

3. The completed form shall constitute the annual report on the insurer's loss prevention and control programs required pursuant to section 165 of SB 250 (2003), 72nd Session of the Nevada State Legislature.

4. The completed form shall be returned to the commissioner on or before July 1 of each year.