STATE OF NEVADA

BRIAN SANDOVAL
Governor

DEPARTMENT OF BUSINESS AND INDUSTRY

FINANCIAL INSTITUTIONS DIVISION

BRUCE BRESLOW
Director

GEORGE E. BURNS
Commissioner

DATE: April 15, 2016

TO: Legislative Counsel Bureau (LCB) Legal Division

FROM: George E. Burns
Commissioner

SUBJECT: Statement identifying the methods used by the agency in determining the impact of a proposed regulation on a small business and the reasons for the conclusions of the agency per NRS 233B.0608(3).

1. <u>Solicitation of affected small businesses.</u>
The proposed regulations to implement AB-325 impacts private professional guardians that must be licensed by the Nevada Financial Institutions Division (NFID) pursuant to Title 54, Chapter 628B of the Nevada Revised Statutes (NRS). The intent of Title 54, Chapter 628B (AB-325) is to have a licensure process for private professional guardians with the licensing function overseen by the Nevada Financial Institutions Division. The proposed regulations include provisions for the clarification of costs related to fees and assessments, certain definitions, report of changes in information and locations, retention and examinations of records and accounts, confidentiality of records, restrictions, and provide for other matters properly relating thereto.

NFID sought comments in accordance with NRS 233B.0608 for the purpose of considering whether as a result of the proposed regulations, there may be a direct and significant economic burden upon small business (defined as fewer than 150 employees) or if the regulations will directly restrict the formation, operation or expansion of a small business seeking to those engaged in or who desire to engage in the business of a private professional guardian and to ensure that there is established in this State an adequate, efficient and competitive private professional guardian service available to the courts and the public at large.

NFID composed the solicitation list from contact with all ten (10) District Courts, NAIC membership list, and the Division's regulatory action contact list. In turn, NFID solicited comments on the proposed regulations for Title 54, Chapter 628B (AB-325) from all of the above lists by e-mailing a notice and questionnaire. Additionally a copy of the full text of the proposed regulations was also posted to the Division website. The combination of solicited comments, PPG Small Business testimony to the Nevada Legislature regarding AB-325, documents from the Commission to Study the Administration of Guardianships in Nevada's Courts were all used to formulate this Small Business Impact Statement.

2. The manner in which the analysis was conducted.
NFID sent a copy of the draft regulations and a SBI Questionnaire to all known PPG small businesses and individual PPGs for review and invited written comment regarding the impact to the private professional guardian community and took all comments submitted into consideration.

As a result, NFID has learned from PPG small businesses and legislative testimony that this type of occupation is quite difficult and retaining the current labor pool and recruiting future private professional guardians can be quite difficult. According to testimony to the Nevada Legislature earlier this year it was stated that in 2008, there were approximately fourteen (14) individual PPGs in Nevada and recent gains in the individual PPG community only number six (6) in the last 7 to 8 years for a approximate total of twenty (20) individual PPGs as of May 2015. There are approximately 14 PPG Companies, 12 of which have only one (1) individual PPG. As part of the process to garner the most current information from the PPG Community NFID sent a Small Business Impact Questionnaire to the community and based on the feedback received by NFID there are (As of November 2015) 40 individuals (20 caseworkers/small business staff and 20 PPGs) currently employed by PPG small businesses in Nevada.

Although it is noted that there are very few if any PPG small businesses in the rural counties (not within close proximity to Reno, Carson City, or Las Vegas metros), NFID has done everything possible to address the economic impact to prevent the loss of and reduce undue hardship upon PPG small businesses in these more rural counties to continue their necessary duties for wards they serve.

NFID has reviewed all comments from the attendees of the two workshops and the public hearing/adoption meeting and took the comments into consideration. NFID received a total of seven (7) comments and a summary of the responses are available upon request.

3. The reasons for the conclusions of the agency regarding the impact of the regulation on small businesses.
This is a result of the passage of new legislation that will require small businesses to pay state mandated yearly application fees, licensing fees, and hourly examination fees. NFID can only indirectly lessen the impact on small business by establishing an equitable fee schedule to moderate the costs to implement this new law and to be proactive in dealing with problems through efficient processes.

To the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement is accurate.

George E. Burns
Commissioner

SMALL BUSINESS IMPACT STATEMENT FOR PROPOSED REGULATIONS BY THE FINANCIAL INSTITUTIONS DIVISION TO AB-325 (Title 54, Chapter XXX)
THE BUSINESS OF PRIVATE PROFESSIONAL GUARDIANS (PPG)

3 December 2015

1. Small Business Impact (SBI) Statement pursuant to NRS 233B.0609:

(a) A description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.

(I) <u>Solicitation of affected small businesses.</u>
The proposed regulations to implement AB-325 impacts private professional guardians that must be licensed by the Nevada Financial Institutions Division (NFID) pursuant to Title 54, Chapter XXX of the Nevada Revised Statutes (NRS). The intent of AB-325 (Title 54, Chapter XXX) is to have a licensure process for private professional guardians with the licensing function overseen by the Nevada Financial Institutions Division. The proposed regulations include provisions for the clarification of costs related to fees and assessments, certain definitions, report of changes in information and locations, retention and examinations of records and accounts, confidentiality of records, restrictions, procedures for reinstatement of expired licenses, and provide for other matters properly relating thereto.

NFID sought comments in accordance with NRS 233B.0608 for the purpose of considering whether as a result of the proposed regulations, there may be a direct and significant economic burden upon small business (defined as fewer than 150 employees) or if the regulations will directly restrict the formation, operation or expansion of a small business seeking to those engaged in or who desire to engage in the business of a private professional guardian and to ensure that there is established in this State an adequate, efficient and competitive private professional guardian service available to the courts and the public at large.

NFID composed the solicitation list from contact with all ten (10) District Courts, NAIC membership list, and the Division's regulatory action contact list. In turn, NFID solicited comments on the proposed regulations for AB-325 (Title 54, Chapter XXX) from all of the above lists by e-mailing a notice and questionnaire. Additionally a copy of the full text of the proposed regulations was also posted to the Division website. The combination of solicited comments, PPG Small Business testimony to the Nevada Legislature regarding AB-325, documents from the Commission to Study the Administration of Guardianships in Nevada's Courts were all used to formulate this Small Business Impact Statement.

(II) <u>Summary of responses.</u>
See attached spreadsheets.

(III) <u>Obtain a copy of the summary.</u>

This Small Business Impact Statement (SBI) was posted on the NFID website dated December 2, 2015 along with a Notice of Workshop for December 18, 2015. Interested persons may also obtain a copy of the Small Business Impact Statement by contacting the:

Office of the Commissioner
Financial Institutions Division
2785 E. Desert Inn Road, Suite 180
Las Vegas, NV 89121
Email: FIDMaster@fid.state.nv.us
Voice: (702) 486-4120
Fax: (702) 486-4563
Website: http://fid.state.nv.us

(b) The manner in which the analysis was conducted.

NFID sent a copy of the draft regulations and a SBI Questionnaire to all known PPG small businesses and individual PPGs for review and invited written comment regarding the impact to the private professional guardian community and took all comments submitted into consideration.

As a result, NFID has learned from PPG small businesses and legislative testimony that this type of occupation is quite difficult and retaining the current labor pool and recruiting future private professional guardians can be quite difficult. According to testimony to the Nevada Legislature earlier this year it was stated that in 2008, there were approximately fourteen (14) individual PPGs in Nevada and recent gains in the individual PPG community only number six (6) in the last 7 to 8 years for a approximate total of twenty (20) individual PPGs as of May 2015. There are approximately 14 PPG Companies, 12 of which have only one (1) individual PPG. As part of the process to garner the most current information from the PPG Community NFID sent a Small Business Impact Questionnaire to the community and based on the feedback received by NFID there are (As of November 2015) 40 individuals (20 caseworkers/small business staff and 20 PPGs) currently employed by PPG small businesses in Nevada.

Although it is noted that there are very few if any PPG small businesses in the rural counties (not within close proximity to Reno, Carson City, or Las Vegas metros), NFID has done everything possible to address the economic impact to prevent the loss of and reduce undue hardship upon PPG small businesses in these more rural counties to continue their necessary duties for wards they serve.

(c) The estimated economic effect of the proposed regulation on the small businesses which it is to regulate including, without limitation:

(1) Both Adverse and Beneficial effects:

(I) ADVERSE EFFECTS:

A plurality of PPG small businesses have stated that any new or additional fees that did not exist previously will have a large direct impact on PPG small business and there will be some impact to the client (ward) in some financial manner or form. The PPG small business community also stated that regardless of any NFID efforts to directly lessen the impact on small business by establishing a equitable fee schedule to moderate the costs to regulate the industry, PPG small businesses consider the new application and licensing fees excessive and PPG Service Fees will increase to cover the additional cost of doing business. It appears to be conclusive that the clients (wards) will see an increase in costs which PPG small businesses state "is beyond the control of PPG small business entities and directly attributable to the passage of the PPG legislation". Based on the feedback received the new "unknown financial burdens" (costs and fees) may also cause loss of some individually owned PPG small businesses due to increased regulatory costs, thus giving the public less choices. The NFID average initial non-depository company application/licensing fee is approximately $1360.00 and the proposed initial individual PPG application/licensing fee (natural person) is $1600.00.

(II) BENEFICIAL EFFECTS:
Upon consideration of all the comments, the NFID has concluded that the proposed regulations will result in some economic impact upon small business and the proposed regulations could affect the formation, operation or expansion of a small business seeking to provide these services. However, this is not a direct result of the proposed regulations, nor to the NFID efforts to regulate this industry, but because of the passage of this new legislation that will require small businesses to pay state mandated yearly application fees, licensing fees, hourly examination fees, along with pre-existing required Center for Guardianship Certification fees per NRS 159. It must also be noted that the legislation only lists the maximum amount that we can charge. Only through well thought out and coordinated administrative language (NAC) with the PPG small businesses can NFID directly lessen the impact by establishing a cost based equitable fee schedule to moderate the costs to regulate the industry per this new law.

The main premise from the Legislative testimony and the data collected from all interested parties is that the NFID realizes the industry is not very large and will do everything possible not to cause any ill affect on the PPG small businesses. The proposed administrative language will allow, at the discretion of the Commissioner, a private professional guardian entity that is: 1) Owned solely by the same individual, a natural person, who is the only certified private professional guardian of such entity; 2) A certified private professional guardian licensed by the Division; and 3) Does not employ more than one natural person as a certified and Division licensed private professional guardian will not be required to obtain both an "Entity and an Individual PPG license" in order to prevent double-licensing and lessen the financial burden on small business. NFID anticipates this reduced financial burden on small business may lessen the concerns regarding adding new employees and lower the current perception of an inevitable reduction in profitability which could lead to the decision to close businesses. Also by maintaining accurate records and cooperation with NFID during the required examinations will lessen the number of hours required to complete the examinations thus reducing costs.

Three small businesses indicated that the "cost of surety bonds on all employees" was a major concern. According to AB-325, Section 33, subsection 4, "a private professional guardian company shall obtain suitable surety bonds in accordance with NRS 159.065 as applicable. NFID has not proposed any regulatory language to expand what is contained in AB-325 with regards to "surety bonds" other than reporting any changes to the Commissioner within 10 days.

(2) Both Direct and Indirect effects:

(I) DIRECT EFFECTS:

NFID has made every effort to reach out early and to the entire PPG community in order to facilitate a joint effort to develop regulations that do not exacerbate any additional financial and regulatory burden upon the existing PPG small business community while not deterring those who would like to serve in this profession. NFID understands PPG small businesses have many financial burdens such as professional liability insurance, business insurance, medical insurance, and payroll (supporting staff and caseworkers) with a controlled income. The legislation passed only specifies the maximum fee amounts and gives NFID discretion to set the fee amounts. Through internal analysis NFID has determined the minimum fee amounts to cover the basic costs for the Division to implement and carry out the legislation. NFID is also aware that some wards/cases with smaller asset levels may not be accepted due to the required increase in PPG application and renewal fees and as stated above is doing everything possible to minimize the fee amounts.

NFID has determined the most prominent positive direct effects from the passage of AB-325 will be the ability to ensure consistency in the PPG business community as well as reduce any potential financial abuse of wards. This in turn will also establish a general public perception of PPG small businesses as ethical, honest, and credible. With each individual PPG averaging approximately 20 clients, this bill in combination with the proposed regulations provides the necessary oversight to reduce financial fraud/abuse, and enhance checks/balances of how the ward's assets are being handled through regular examination. The examination fee ($75/Hr) is a cost based amount to cover the time to conduct the examination and prepare the report. Private Professional Guardians will be required to maintain separate accounts for each ward and account for all transactions which could be an additional expense; however this added task/expense protects both the licensee and the ward by providing segregated detailed accounting. Another positive attribute is any concerned party will be able to call NFID and verify the license is current and all the required examining has been accomplished and documented which could reduce attorney fees and expedite problem/complaint resolution.

NFID's primary role deals with monitoring the fiduciary responsibilities of private professional guardians through licensing and examinations (see above paragraph). In the past when a problem was identified and family members realized there was a need to act because something is being done inappropriately, the process to address the problem had to go back to the courts which is time consuming, costly, and very burdensome on the courts and PPGs. NFIDs role is designed to alleviate most of that burden (financial and regulatory) through a more streamline avenue for complaints to be registered, reviewed, and resolved and not just another layer of government oversight. It is believed that this streamlined process could reduce attorney fees which are identified from the PPG industry to be the root cause of most expenses to the wards.

(II) INDIRECT EFFECTS:

It is noted that a common concern from the PPG Community regarding the proposed regulations is that the draft regulations will generate unlimited extra hours of work to support the NFID requirements to enforce the new law which may cause more time away from wards and could cause some harm to the wards physical/mental well being.

It was also noted from PPG small businesses the concern that frivolous and unsubstantiated complaints will take away time with clients (wards) and especially in a solely owned PPG Small Business. This possible situation may be reduced with the increased role of the NFID to resolve complaints at the lowest level possible rather than be resolved through the court system. All complaints made to the NFID must be in writing and verified by signature under the penalty of perjury.

(d) A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.
NFID has received a total of nine (9) responses to the solicitation sent to all interested parties. NFID has considered and analyzed all submitted comments as detailed above as well as additional research to concerns addressed from testimony during the 2015 legislative session as detailed above. See attached spreadsheets.

(e) The estimated cost to the agency for enforcement of the proposed regulation.
The estimated cost to the Financial Institutions Division for enforcement of the proposed regulation should be covered by the proposed fees to be collected by NFID. It is estimated NFID will not need any additional funding or a budget increase.

(f) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect, and the manner in which the money will be used.
The proposed regulation provides new fees established by the passage of the legislation and the total amount NFID expects to collect based on the recent data from Nevada Legislative testimony (Indicating there are approximately 20 Individual PPGs in Nevada) is approximately:

1) **The 1st Year → $32,000** (Based on the application fee of $600 and initial licensing fee of $1000 for 20 Individual PPGs). It should also be noted that previously stated in this PPG SBI Study that PPG Small Businesses that do not employ more than one natural person as a certified and division licensed Private Professional Guardian will not be required to obtain both an "Entity and an Individual PPG license" in order to prevent double-licensing and lessen the financial burden on small business.

2) **The 2nd Year → $32,500** (Based on Yearly Renewal Fee of $1000 and Hourly examination Fee of $75 with the average exam projected to take approximately 12 hours to complete). It is also expected that the following yearly exams will not take 12 hours to complete thus lowering this cost in future years.

The fees collected will be used by NFID to regulate the industry at the most economical method possible with the Division's established objective to maintain all fees at the lowest level possible to cover only agency costs to implement/operate/enforce and not to over burden small business with high and unnecessary fees. To further facilitate the goal of maintaining fees at the lowest level possible, NFID volunteered to take the regulatory responsibility without any additional state funding or staff.

(g) If the proposed regulation includes provisions which duplicate or are more stringent than federal, state, or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.
To our knowledge the proposed regulations do not duplicate any existing federal, state, or local standards regulating the same activity, with the possible exception of reporting under NRS 159.

(h) The reasons for the conclusions of the agency regarding the impact of the regulation on small businesses.
This is a result of the passage of new legislation that will require small businesses to pay state mandated yearly application fees, licensing fees, and hourly examination fees. NFID can only indirectly lessen the impact on small business by establishing an equitable fee schedule to moderate the costs to implement this new law and to be proactive in dealing with problems through efficient processes.

To the best of my knowledge, the information contained in this Small Business Impact Statement was prepared properly and accurate.

George E. Burns
Commissioner

New Application and Licensing Fees/Requirements seem excessive and increase Small Business Costs. Explain how the fees were determined? This will cause increased cost to the wards/clients.	9 (100%)	Adverse	It must also be noted that the legislation only lists the maximum amount NFID can charge. Only through well thought out and coordinated administrative language (NAC) with the PPG small businesses can NFID directly lessen the impact by establishing a equitable fee schedule to moderate the costs to regulate the industry per this new law. The proposed fees are comparable to what NFID uses for other licencees. The main premise from the Legislative testimony and the data collected from all interested parties is that the Division realizes the community is not very large and will do everything possible not to cause any ill affect on the PPG small businesses. The proposed administrative language will allow, at the discretion of the Commissioner, a private professional guardian entity that is: 1) Owned solely by the same individual, a natural person, who is the only certified private professional guardian of such entity; 2) A certified private professional guardian licensed by the Division; and 3) Does not employ more than one natural person as a certified and Division licensed private professional guardian will not be required to obtain both an "Entity and an Individual PPG license" in order to prevent double-licensing and lessen the financial burden on small business. NFID anticipates this reduced financial burden on small business may lessen the concerns regarding adding new employees and lower the current perception of an inevitable reduction in profitability which could lead to the decision to close businesses.

Unable to determine the fees charged for supervision, audit, examination, investigation or hearings as authorized in Section 37, Para 9. Requirement to submit an audited financial statement yearly could become a financial burden that is unsustainable if these costs are not allowed to be passed on to the ward.	3 (33%)	Adverse	The examination fee ($75/Hr) is a cost based amount to cover the time to conduct the examination and prepare the report (per NRS 658.101). It appears to be an absolute that the clients (wards) will see an increase in costs which PPG small businesses state “is beyond the control of PPG small business entities and directly attributable to the passage of the PPG legislation”. NFID proposed regulation states that “Fees required by this chapter shall not be assessed directly to the estate of any ward”. AB-325 states: the Commissioner may require a licensee to submit an annual financial statement or an audited financial statement prepared by an independent certified public accountant licensed to do business in this State, dependent upon the size and complexity of the private professional guardian company.
Unable to determine the amount of time that will be expended by FID and the amount of time that will be spent by PPG Small Business Staff to comply with the examinations. It is clear that their will be examinations, but what are the minimum/maximum charges? Possible loss of employee billable hours for time to comply and respond to examinations.	3 (33%)	Adverse	The hourly examination fee is $75 with the average first year exam projected to take approximately 12 hours to complete (12 x $75= $900). It is also expected that the following yearly exams will not take 12 hours to complete thus lowering this cost in future years. Maintaining accurate records and cooperation with NFID during the required examinations will lessen the number of hours required to complete the examinations thus reducing costs.

What is the cost of surety bonds on all employees	3 (33%)	Adverse	Three small businesses indicated that the “cost of surety bonds on all employees” was a major concern. According to AB-325, Section 33, subsection 4, “a private professional guardian company shall obtain suitable surety bonds in accordance with NRS 159.065 as applicable. NFID has not proposed any regulatory language to expand what is contained in AB-325 with regards to “surety bonds” other than reporting any changes to the Commissioner within 10 days. It was also noted from the PPG Community that protects the ward and/or their estate. Though Bonds have a cost, a safe and accountable environment will be achieved.

Unable to accept cases with smaller asset levels due to required increase in PPG Company fees to cover licensing costs	1 (11%)	Adverse	This is not a direct result of the proposed regulations nor to the NFID analysis to regulate this new program, but because of the passage of this new legislation that will require small businesses to pay state mandated yearly application fees, licensing fees, hourly examination fees, along with pre-existing required Center for Guardianship Certification fees per NRS 159. It must also be noted that the legislation only lists the maximum amount NFID can charge. Only through well thought out and coordinated administrative language (NAC) with the PPG small businesses can NFID directly lessen the impact by establishing an equitable fee schedule to moderate the costs to regulate the industry per this new law. Through internal analysis NFID has determined the minimum fee amounts to cover the basic costs for the Division to implement and carry out the legislation. NFID is also aware that some Wards/cases with smaller asset levels may not be accepted due to the required increase in PPG application and renewal fees and as stated above is doing everything possible to minimize the fee amounts.
Possible loss of benefit of being a corporation because the statute is vague whether both company and owners will be required to be licensed. Will licensing fees apply just to the Entity (Business) or any Certified PPG. Unclear in the proposed regulations.	2 (22%)	Adverse	The proposed administrative language will allow, at the discretion of the Commissioner, a private professional guardian entity that is: 1) Owned solely by the same individual, a natural person, who is the only certified private professional guardian of such entity; 2) A certified private professional guardian licensed by the Division; and 3) Does not employ more than one natural person as a certified and Division licensed private professional guardian will not be required to obtain both an “Entity and an Individual PPG license” in order to prevent double-licensing and lessen the financial burden on small business.

Real concern that the financial impact, concern about adding new employees, loss of business, and possible closure of businesses due to profitability	6 (67%)	Adverse	NFID has made every effort to reach out early and to the entire PPG community in order to facilitate a joint effort to develop regulations that do not exacerbate any additional financial and regulatory burden upon the existing PPG small business community while not deterring those who would like to serve in this profession. NFID understands PPG small businesses have many financial burdens such as professional liability insurance, business insurance, medical insurance, and payroll (supporting staff and caseworkers) with a controlled income. The legislation passed only specifies the maximum fee amounts and gives NFID discretion to set the fee amounts. Through internal analysis NFID has determined the minimum fee amounts to cover the basic costs for the Division to implement and carry out the legislation. An additional measure to be implemented by NFID in order not exacerbate any additional financial and regulatory burden upon the existing PPG small business community is the accepted portability of the individual PPG license. If some reason an individual would like to move to a different PPG company or leave a company and start an individually owned PPG small business they will not have to re-apply for a new individual PPG license. The existing license will be valid until the expiration date.

PPG Community Direct or Indirect Impact Item	Number/ and %	Direct or Indirect	Adverse or Beneficial	NFID Answer/Mitigation
Time that it will take to comply with all regulatory mandates will be time spent away from Wards	2 (22%)	Indirect	Adverse	It is noted that a common concern from the PPG Community regarding the proposed regulations is that the draft regulations will generate unlimited extra hours of work to support the Division requirements to enforce the new law which may cause more time away from Wards and could cause some harm to the Wards physical/mental well being. It is not NFIDs intent on creating extra and unnecessary work or an additional layer of government oversight. NFID has made every effort to reach out early and to the entire PPG community in order to facilitate a joint effort to develop regulations that do not exacerbate any additional financial and regulatory burden upon the existing PPG small business community while not deterring those who would like to serve in this profession.
Unsubstantiated complaints can hurt a company and the time to resolve complaints takes away time with Wards.	3 (33%)	Indirect	Adverse	NFIDs role is designed to alleviate most of that burden (financial and regulatory) through a more streamline avenue for complaints to be registered, reviewed, and resolved and not just another layer of government oversight. It is believed that this streamlined process could reduce attorney fees which are identified from the PPG Community to be the root cause of most expenses to the Wards. It was also noted from PPG small businesses the concern that frivolous and unsubstantiated complaints will take away time with clients (wards) and especially in a solely owned PPG Small Business. This possible situation may be reduced with the increased role of the NFID to resolve complaints at the lowest level possible rather than be resolved through the court system.

Uncertainities from unknown additional financial burdens	2 (22%)	Indirect	Adverse	Based on recent testimony to the Nevada legislature, NFID is aware that private professional guardians do not make a great deal of money and cannot afford hefty fees known and unknown. It is a correct that the fees will be set at the discretion of the Commissioner and NFID realizes the PPG Community is quite concerned. NFID is also aware that most PPG Small Businesses work with a small profit margin and cannot afford to stay in business if the fees become too burdensome. NFID is aware that PPG Small Businesses have many other financial burdens such as the high cost of professional liability insurance that must be carried due to the uncertainty of the parties dealt with on a constant basis in guardianship cases. Include that with all the other normal expenses such as business insurance, medical insurance, and payroll with a controlled income (all fees must be approved by the Court before private professional guardians are paid). With respect to determining the amounts for licenses and applications NFID has made every effort to ensure the amount is comparable to what we use for other licensees. The amounts for the fees do not exceed the maximum amount contained in AB-325. Through workshops, NFID will be establishing the final fees with the industry. Normally, NFID fees are in the range of 1/2 to 2/3 of the authorized amount by statute in order to give NFID flexibility to increase through regulatory workshop on the future, should it be necessary. The NFID average initial non-depository company application/licensing fee is approximately $1360.00 and the initial individual PPG application/licensing fee (natural person) is $1600.00. NFID has also released a draft copy of the proposed regulations prior to the first workshop to the PPG Community to attempt to alleviate most of the uncertainty.

These additional fees and regulations will cause some small business to close and thus giving the general public less choice	3 (33%)	Indirect	Adverse	The consistant regulation and enforcement of the new law may create an environment where other PPGs decide not to stay in business. If this happens, there would potentially be more business for the remaining PPGs and less choice for the clients (wards).
PPG Community does not understand why NFID was commissed to oversee PPGs. Uncertainity of the relationaship between NFID and PPG Community.	1 (11%)	Indirect	Adverse	NFID did not have any vested interest in AB-325 other then being of assistance in determining if there were means and methods to regulate such an industry. NFID was contacted by the Aging and Disability Services Division in early 2014. NFID has the knowledge and experience to license, examine, and supervise a cadre of financial enterprises. NFID assistance consisted of taking standards for licensing, examination, and supervision from existing applicable statutes and tailored them for PPGs. The supervision provisions for handling complaints and taking administrative action against licensed private professional guardians are similar to those that we use for other NFID regulated entities and could be implemented in accordance with the Administrative Procedures Act. It was also determined that NFID has sufficient resources available to license, examine, and supervise the relatively small number of PPGs.

Concern over the new fees and how this will affect the amount of staff to distribute casework.	1 (11%)	Indirect	Adverse	The fact of the matter is AB-325 has been passed and is law. The law requires small businesses to pay state mandated yearly application fees, licensing fees, hourly examination fees, along with pre-existing required Center for Guardianship Certification fees per NRS 159. NFID has done everything possible to be transparent on the new application and licensing fees and believes that by introducing these fees prior to the first workshop will allow PPG Small Business to evaluate the impact, plan accordingly, and update their business model. The fees collected will be used by NFID to regulate the industry at the most economical method possible with the Division's established objective to maintain all fees at the lowest level possible to cover only agency costs to implement/operate/enforce and not to over burden small business with high and unnecessary fees. To further facilitate the goal of maintaining fees at the lowest level possible, NFID volunteered to take the regulatory responsibility without any additional state funding or staff. As stated earlier, NFID wants to prevent double-licensing and thus lessen the financial burden on small business. Through internal analysis NFID has determined the minimum fee amounts to cover the basic costs for the Division to implement and carry out the legislation.

More could have been accomplished with the revision of NRS 159 and not by adding another layer of oversight	1 (11%)	Indirect	Adverse	Currently, private professional guardians are not licensed in the state of Nevada. Private professional guardians are certified pursuant to Nevada Revised Statutes (NRS) 159.059 and 159.0595 through the Center for Guardianship Certification, and in no way, shape, or form does AB-325 remove that requirement for certification. Oversight was through the courts at their discretion, and it is extremely difficult for complaints to be formally raised and processed against a guardian within the current system. What AB-325 does is provide for licensure of private professional guardians in Nevada based on models of other industries already licensed. It creates infrastructure for licensure within the Department of Business and Industry, allows for yearly auditing of private professional guardians and the businesses they are associated with, provides for background investigations to confirm their ethical and moral qualifications, and provides national certification requirements of the person or business applying for licensure as a guardian. AB-325 does direct regulatory oversight by a state agency as to the business model and interactions that private professional guardians have with those they are charged with serving, but does not affect any of the services provided. With regards to another layer of oversight it is NFIDs intention to work with the PPG Community to prevent over-regulation, additional confusion, and conflicts between NRS159 and AB-325. AB-325 also provides for due process if a guardian or business providing private professional guardianship disagrees with the findings of the Department, and it helps legitimize an extremely important and necessary industry while protecting those who are dependent on guardians from companies or individuals who may choose to exploit people not capable of looking out for themselves.

				Another main concern from the PPG Community during Legislative testimoney was how AB-325 will change the services that are provided. What AB-325 does is provide an infrastructure for the licensure from the business aspect of what they are doing and the responsibilities they have toward their wards. In no way does AB-325 change the services that are being provided as previously stated above.
AB-325 does nothing to limit attorney fees which is the main cause of high costs to wards	1 (11%)	Indirect	Adverse	NFID will have the records and the ability to do the auditing, rather than having a person go back to court. That is one of the big points about this bill -- It will give people a place to go when they are concerned. Right now, all a person can do is hire an attorney and file a petition.

Unable to accept cases with smaller asset levels due to required increase in PPG Company fees to cover licensing costs	1 (11%)	Indirect	Adverse	The fact of the matter is AB-325 has been passed and is law. The law requires small businesses to pay state mandated yearly application fees, licensing fees, hourly examination fees, along with pre-existing required Center for Guardianship Certification fees per NRS 159. The fees collected will be used by NFID to regulate the industry at the most economical method possible with the Division’s established objective to maintain all fees at the lowest level possible to cover only agency costs to implement/operate/enforce and not to over burden small business with high and unnecessary fees. At the 16 September meeting of the Nevada Supreme Court Commission to Study the Administration of Guardianships in Nevada's Courts it was noted that the Northern Nevada PPG business community intends to raise the rate to $140 per hour--basically passing the new licensing costs onto the client. There was apparently no increase in the Southern Nevada business community. Per law, NFID is not capable of setting a standardized hourly charge amount state wide, but can execute the program efficiently as possible to help Northern Nevada PPGs with this disparity. This is noted as a possible indirect impact to only Northern Nevada PPGs that is not caused by any NFID action.

With regards to certified audits, one small business believes these should only in circumstances where negligence or wrong doing exists. If no wrong doing exist, but the Commissioner believes the size and or complexity of the ward's estate warrents an audit, the ward's estate should bear the costs of any required audit.	1 (11%)	Direct	Adverse	AB-325 states -- In rendering a decision on an application for a license, the Commissioner shall consider, without limitation whether the applicant has planned suitable annual audits conducted by qualified outside auditors of its books and records and its fiduciary activities under applicable accounting rules and standards as well as suitable internal audits. AB-325 states -- The Commissioner may require a licensee to submit an annual financial statement or an audited financial statement prepared by an independent certified public accountant licensed to do business in this State, dependent upon the size and complexity of the private professional guardian company. NFID proposed regulation states -- Fees required by this chapter shall not be assessed directly to the estate of any ward.
PPG Small Business will be preceived by the general public as honest, ethical, and crediable	5 (56%)	Direct	Beneficial	NFID has determined the most prominent positive direct effects from the passage of AB-325 will be the ability to ensure consistency in the PPG business community as well as reduce any potential financial abuse of wards. This in turn will also establish a general public perception of PPG small businesses as ethical, honest, and credible.

PPG Community Suggestions	Number	NFID Answer/Action
PPG Community hoping with licensing that the public will perceive them as a legitmate professional business	1	NFID has determined the most prominent positive direct effects from the passage of AB-325 will be the ability to ensure consistency in the PPG business community as well as reduce any potential financial abuse of wards. This in turn will also establish a general public perception of PPG small businesses as ethical, honest, and credible.
Proposed fees seem very high and arbitraliy set. What do the fees cover? What is the requirement to apply for a NFID PPG License? The proposed fees are too high, and together with unknown costs, will be passed on to the protected person. Fees should be significantly lower.	3	Through internal analysis NFID has determined the minimum fee amounts to cover the basic costs for the Division to implement and carry out the legislation. NFID is also aware that some Wards/cases with smaller asset levels may not be accepted due to the required increase in PPG application and renewal fees and as stated above is doing everything possible to minimize the fee amounts.

The regulation language it is not clear whom is being licensed? Entity and Individual? Just an individual or just the entity?	1	The proposed administrative language will allow, at the discretion of the Commissioner, a private professional guardian entity that is: 1) Owned solely by the same individual, a natural person, who is the only certified private professional guardian of such entity; 2) A certified private professional guardian licensed by the Division; and 3) Does not employ more than one natural person as a certified and Division licensed private professional guardian will not be required to obtain both an “Entity and an Individual PPG license” in order to prevent double-licensing and lessen the financial burden on small business. Basically the above paragraph states that if PPG Small Business consists of more than one private professional guardian, then an “Entity License” is required for the business and each certified private professional guardian must also be “Individually Licensed”. For the PPG Small Business that consists of only one certified private professional guardian, then only a "Individual PPG License” is required. The "Indivdual License is also portable if for some reason a Licensed PPG wants to change companies or leave a company and start their on PPG Small Business.
Why wasn't NRS 159 just modified because Attorney's fees by far need to be regulated because they directly cause the most expenses/costs to the wards.	1	This was a decision by the Nevada Legislature.
Corporations should operate and be licensed under their EIN and not their personal SSN. Proposed Regulation Section 19.1(a), the application requires a social security but does not reference an Employer Identification Number (EIN) which should be included for entities. .	2	The personal SSN is used to verify any child support arrearages, noncompliance with certain processes relating to paternity or child support proceedings, and for a background check. Standard procedure in NFID with all applications.

In the event a PPG wishes to open a business in a different state, the state in which that company is opening should regulate the entity and not NV	1	It is NFID's intent to maintain all Nevada based PPG small businesses to the highest ethical standards, honesty, and crediblilty to provide the necessary oversight to reduce financial fraud/abuse, and enhance checks/balances of how the Ward's assets are being handled through regular examination.
Appears this bill duplicates some bills that have already passed. Oversight is important, but it seems unfair to put all the financial burden on PPG Small Businesses. The additional fees could put some of us out of business when we are honestly trying to take care of the elderly.	1	If this bill duplicates any previous bills, then that is a matter decided by the Nevada Legislature and beyond NFIDs control. NFIDs position is neutral on the issue and was only approached whether the Division had the means and methods to regulate this industry within the NFID. NFID has the knowledge and experience to license, examine and supervise a cadre of financial enterprises.
Proposed Regulation Section 10, under the title of Private Professional Guardian Company appears to state that an individual can get licensed but then does not have to license under the name in which they are doing business. This appears to allow a person to practice as a "fictitious name registration". Private Public Guardians or Private Public Guardian Companies should be required to do business under the name under which they are licensed and ***OPERATION AS A GUARDIAN UNDER A FICTITIOUS BUSINESS NAME REGISTRATION SHOULD NOT BE ALLOWED.***	1	The individual PPG license application form can contain a line /entry block which requires the individual PPG to identify the PPG Company they associated with. Whether it is a individually owned PPG Small Business or a PPG Small Business that employs more than one PPG. Section 18, Paragraph 3a in AB-325 states that: "The application must contain: (a) The name of the applicant and the name under which the applicant does business or expects to do business, if different. NFID interprets this to apply to the all references associated to the Individual PPG including all small business names.

If Proposed Regulation Section 10, intends imply that individuals will be required to be licensed, such would not be consistent with Nevada Statute. The regulations should include entities as private professional guardians consistently, including the application process, as we are corporations under Nevada Law, and as we are allowed by statute to operate as private professional guardian (companies).	1	If the PPG obtains a license from the state in their personal name they don't have the protection of their personal assets provided by filing as an LLC or corporation.
Pooled accounts should be allowed as permitted by the court. As they are needed for persons who cannot open a checking account in their own name, i.e. aliens and parties vulnerable to garnishment.	1	Not sure what this is exactly this suggestion references? Aliens and parties vulnerable to garnishment ? I assume it is the Ward and not the PPG?
Should maintain consistent title language. Proposed regulation currently interchanges reference to "licensee", "private professional guardian ', "guardian", "applicant" in a confusing manner.	1	Topic of discussion during the Workshop.
Proposed Regulation 32 relating to branch offices should be eliminated. If a person or company wishes to be appointed as a guardian in another state by that state's courts, they need to comply with the laws of that state. Private Professional Guardianship are not "interstate businesses" and therefore, branch offices, should not be allowed outside this state. By the same virtue, no fiduciary or agency that his licensed in another state should be allowed to open a branch office and do business as a "private professional guardian" without complying with the same requirement Nevada based business are required to meet.		

With regards to safe guarding the wards financial assets, one small business believes the combination of blocked accounts (Court Supervised) and a bonded account with a "not to exceed" amount is a sound way to protect the ward.	1	Topic of discussion during the Workshop.