

LCB File No. R173-01

**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 MEDICAL DENTAL SCREENING PANEL

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

1. The proposed regulation is necessary to complete a thorough and comprehensive update of chapter 41A of NAC.
2. The proposed regulation will streamline the procedures of the panel for the benefit of the public and the industry and allow basic procedures to be more consistent with Nevada state court procedures.
3. Estimated economic effect of the regulation:
On the business which it is to regulate:
The proposed regulation should have neither an immediate nor a long-term impact on the industry.
On the public:
The proposed regulations should have no economic impact on the public.
4. The Division does not expect to incur any additional expenses to enforce the proposed regulation.
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

Douglas County Library
1625 Library Lane

Las Vegas, NV 89101

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. R173-01

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

**REGULATION FOR SCREENING PANELS FOR
MEDICAL AND DENTAL MALPRACTICE**

Authority: NRS 41A.033(7)

Section 1. NAC 41A.011 is hereby amended to read as follows:

As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 41A.00~~4~~³ to 41A.013, inclusive, have the meanings ascribed to them in those sections.

Sec. 2. NAC 41A.018 is hereby amended to read as follows:

As used in NRS 41A.049, the commissioner of insurance will interpret the term “complaint” to include only a complaint that is submitted to the division. The term does not include any ~~[documentary]~~ evidence that is submitted to the division with the complaint.

Sec. 3. NAC 41A.020 is hereby amended to read as follows:

In any proceeding before a screening panel, ~~[the parties]~~ *each party* must be denominated as ~~[the] a~~ claimant ~~[and]~~ *or as a* respondent.

Sec. 4. NAC 41A.031 is hereby amended to read as follows:

Form for request; requirements. If a claimant dies or becomes incompetent or incapacitated after filing a complaint with the division, the division will authorize the substitution of the proper claimant. The successor or representative of the claimant must file a request for substitution with the division within 60 days after the claimant dies or becomes incompetent or incapacitated. The request must be authenticated by a notary public *or by a declaration in the form described in NRS 53.045(1)* and include:

1. An affidavit *or declaration* of the successor or representative of the claimant which sets forth the reason for the substitution of the claimant; and
2. A copy of:
 - (a) The death certificate of the claimant;

- (b) The court order declaring the claimant incompetent; or
- (c) The statement of the claimant's physician that the claimant is incapacitated.

Sec. 5. NAC 41A.040 is hereby amended to read as follows:

1. An original *and nine copies of the* complaint of medical or dental malpractice must ~~be accompanied by~~ *include*:

(a) ~~Nine copies of the complaint.~~

~~(b)~~ The list of all documentary evidence being submitted in support of the claim.

~~(c)~~ *(b)* ~~Ten copies of a~~ *All* documentary evidence being submitted in support of the claim.

One of the copies of the ~~documentary~~ *pertainment* evidence being submitted in support of the claim must be attached to the original complaint. Each item of ~~documentary~~ evidence must be paginated and tabbed along the right-hand edge with a designating number or letter.

~~(d)~~ *(c)* Proof of service by personal service or by certified or registered mail of a copy of the complaint and accompanying documents upon each respondent.

~~(e)~~ *(d)* An executed *medical* release, not restricted as to records, physicians or dentists, to each respondent or his attorney of all pertinent health care or dental records of the claimant.

~~(f)~~ *(e)* A list of the names and addresses of all persons providing medical or dental care to the claimant pertinent to the claim of medical or dental malpractice ~~and~~ *which shall include all named respondents and all providers of medical or dental services within one year prior to the alleged malpractice.*

~~(g)~~ *(f)* A *jurisdictional* statement, to the extent known, that each respondent named in the complaint is a physician licensed pursuant to chapter 630 or 633 of NRS, a dentist licensed pursuant to chapter 631 of NRS, a hospital licensed pursuant to chapter 449 of NRS or established pursuant to chapter 450 of NRS, or an employee of such a hospital and a statement regarding the county in which the alleged malpractice occurred.

~~(h)~~ *(g)* A list of the current address, to the extent known to the claimant, of each respondent named in the complaint.

2. An original *and seven copies of the* answer to a complaint of medical or dental malpractice must *include*:

(a) ~~Seven copies of the answer.~~

~~(b)~~ A clear and concise statement of all the facts relied upon in denying the claim of medical or dental malpractice and all the facts in support of any affirmative defense to be asserted. All references to an exhibit must indicate the designating number or letter of the document and number of the page.

~~(e)~~(b) A list of all documentary evidence upon which the respondent relies, other than documentary evidence already provided by the claimant. Each item of documentary evidence must be tabbed along the right-hand edge with a designating number or letter and paginated.

~~(d)~~(c) ~~[Eight copies of a]~~ All of the documentary evidence being submitted in support of the answer. One of the copies of the documentary evidence being submitted in support of the answer must be attached to the original answer.

~~(e)~~(d) Proof of service *may be* by personal service, ~~[or by]~~ certified or registered mail of a copy of the answer upon ~~[the claimant or his attorney and each other respondent or his attorney]~~ *all other parties to the case.*

3. An original *and seven copies of the* response to an answer to a complaint of medical or dental malpractice must *include:*

(a) ~~[Seven copies of the response.~~

~~(b)~~ A list of all documentary evidence submitted in support of the response. Each item of documentary evidence must be tabbed along the right-hand edge with a designating number or letter and paginated.

~~(e)~~(b) Copies of all of the documentary evidence being submitted in support of the response. One of the copies of the documentary evidence being submitted in support of the response must be attached to the original response.

~~(d)~~(c) Proof of service of a copy of the response and accompanying documents upon each respondent by personal service or by certified or registered mail.

4. The following statement must be printed on the top page or cover of the original complaint and each copy of the complaint:

NOTICE:

Medical Dental Screening Panel
Department of Business and Industry
Division of Insurance
2501 E. Sahara Ave., #302
Las Vegas, Nevada 89104
(702) 486-4390
(702) 486-4060

or

~~[1665 Hot Springs Road, #152
Carson City, Nevada 89706]~~
*788 Fairview Drive, #300
Carson City, NV 89701
(775) 687- ~~[7672]~~ 4270*

A complaint of malpractice naming you as a respondent is being submitted to the Division of Insurance of the Department of Business and Industry. Pursuant to subsection 3 of NRS 41A.039, the person against whom a complaint is filed must, within 90 days after receipt of the complaint, file an answer with the Division of Insurance of the Department of Business and Industry, accompanied by a fee of \$350. For the answer to be *timely* filed ~~[before the filing deadline]~~, it must be received by the division at its office in Las Vegas or Carson City *on or* before ~~[that date]~~ *the filing deadline*. Depositing an answer in the mail does not constitute *a timely* filing ~~[the answer]~~. You should immediately contact your insurer or an attorney concerning this claim. Pursuant to paragraph (b) of subsection 9 of NAC 41A.040, if an answer is not timely filed, the screening panel will proceed to make its findings based only upon the information submitted by the claimant.

5. The following statement must be printed *in not less than 12-point boldfaced type* on ~~[a separate sheet of paper and affixed to]~~ the top page or cover of the original response and each copy of the response:

NOTICE: Pursuant to subsection 5 of NRS 41A.039, the panel shall disregard any portion of the response that does not address an allegation raised in the answer or an affidavit accompanying the answer.

~~{The statement must be printed in not less than 12-point boldfaced type on a sheet of paper that measures 8" by 11 inches. The statement must be printed across the 8 1/2-inch width of the paper.}~~

6. The claimant or respondent may submit a request to have ~~[any documentary]~~ ***certain demonstrative*** evidence submitted with his complaint, answer or response returned to him at the end of the proceedings of the screening panel~~[-, except for the original complaint, original answer, original response, if any, and the copies of the original complaint, original answer and original response that were reviewed by the members of the screening panel and the copies of the original complaint that were submitted pursuant to NRS 41A.049 to the board of medical examiners and the county medical society of the county in which the alleged malpractice occurred],~~ ***including but not limited to such items as x-rays, slides, video tapes. This does not include the original pleading or any copies thereof.*** Any such request for the return of evidence must specify each item of evidence to be returned. If such a request is submitted, the division will return the specified item of evidence at the end of the proceedings. If no such request is made with respect to any of the evidence, the division will destroy the evidence at the end of the proceedings.

7. The division will not accept a supplement to a complaint, answer or response.

8. A general denial by the respondent must be accompanied by a clear and concise statement of the facts upon which he relies.

9. If the respondent does not timely file his answer with the division and he has not been dismissed from the case:

(a) The respondent is not entitled to participate in the conference ***call*** held pursuant to subsection 1 of NRS 41A.043; and

(b) The screening panel shall proceed to make its findings based upon the information submitted by the claimant and all the other respondents who have timely filed an answer to the complaint and have not been dismissed from the case.

10. The complaint and answer must be verified. The complaint must be authenticated by a notary public ***or by a declaration in the form described in NRS 53.045(1).*** The verifications in the original complaint and the original answer must include the original signatures of the claimant or respondent.

11. The original complaint, answer and response and one copy of all accompanying material will be retained by the division for 7 years after the date on which the case is closed.

12. Proof of service by certified or registered mail must include the number of the receipt for certified or registered mail and the original or a copy of the receipt issued by the United States Postal Service that includes the signature of the person who accepted service and the date the service was accepted.

13. The original and each copy of the complaint, answer or response and attached [documentary] evidence or other papers submitted to the division with the complaint, answer or response and served upon the claimant and respondent or his attorney must, if practicable, be firmly bound together in a single binding. For the purposes of this subsection, “firmly bound” does not include fastening by stapling only, and material which is bound only by staples will not be accepted by the division.

14. If the original and copies of the pleadings are submitted to the division or served upon the claimant and respondent or his attorney with covers:

- (a) The color of the covers of all of the pleadings must be white; or
- (b) The color of the cover of the:
 - (1) Complaint must be blue;
 - (2) Answer must be red; and
 - (3) Response must be gray.

15. The parties should not duplicate or submit repeated copies of documentary or other items of evidence that have already been previously filed. Reference to said documentary or other items of evidence should be made by reference to the page or item number set forth in the earliest filed pleading.

(Added to NAC by Comm’r of Insurance, eff. 6-23-86; A 3-7-90; 5-27-92; 9-27-93; 12-15-94; 3-28-96; R223-97, 6-18-98)

Sec. 6. NAC 41A.042 is hereby amended to read as follows:

1. The name, Nevada State Bar number, address, telephone number and, if available, the email address of the attorney or the person appearing in proper person must be set forth starting on the upper left of line one of the first or caption page and of all other pleadings required under chapter 41A of NRS or this chapter.

2. A complaint, answer, response, pleading and any other document filed with the division pursuant to chapter 41A of NRS or this chapter must include the following information in the caption in substantially the same form:

(a) If the document is for the northern medical screening panel:

DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE
NORTHERN MEDICAL SCREENING PANEL

(b) If the document is for the southern medical screening panel:

DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE
SOUTHERN MEDICAL SCREENING PANEL

(c) If the document is for the northern dental screening panel:

DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE
NORTHERN DENTAL SCREENING PANEL

(d) If the document is for the southern dental screening panel:

DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE
SOUTHERN DENTAL SCREENING PANEL

2. In addition to the requirements set forth in subsection 1, each document filed with the division pursuant to chapter 41A of NRS or this chapter must include ~~fa~~ *in the* caption in substantially the following form:

(name of claimant), CLAIMANT

v. CASE NO.

(name of respondent), RESPONDENT

Sec. 7. NAC 41A.043 is hereby amended to read as follows:

Personal service of a complaint, response or answer upon:

1. A physician or dentist must be completed by:

(a) Personally delivering a copy of the complaint, response or answer to the physician or dentist;

(b) Leaving a copy of the complaint, response or answer with a person of suitable age and discretion who is present at the principal place of business of the physician or dentist;

(c) Leaving a copy of the complaint, response or answer with a person of suitable age and discretion who resides at the dwelling house or usual place of abode of the physician or dentist; or

(d) If the physician or dentist is represented by an attorney in the proceedings before the screening panel, by delivering a copy of the complaint, response or answer to the attorney.

2. An employee of a hospital that is licensed pursuant to chapter 449 of NRS or established pursuant to chapter 450 of NRS, other than a physician employed by the hospital, must be completed by:

(a) Personally delivering a copy of the complaint, response or answer to the employee;

(b) Personally delivering a copy of the complaint, response or answer to the chief executive officer of the hospital which employs the employee;

(c) Personally delivering a copy of the complaint, response or answer to the person in charge of directing the defense of claims filed against the hospital which employs the employee;

(d) Leaving a copy of the complaint, response or answer with a person of suitable age and discretion who is present at the office of the ~~[chief executive officer]~~ *administrator* of the hospital which employs the employee;

(e) Leaving a copy of the complaint, response or answer with a person of suitable age and discretion who is present at the office of the person in charge of directing the defense of claims filed against the hospital which employs the employee; or

(f) If the employee is represented by an attorney in the proceedings before the screening panel, by delivering a copy of the complaint, response or answer to the attorney.

3. A hospital that is licensed pursuant to chapter 449 of NRS or established pursuant to chapter 450 of NRS must be completed by:

(a) Personally delivering a copy of the complaint, response or answer to the ~~[chief executive officer]~~ *administrator* of the hospital;

(b) Personally delivering a copy of the complaint, response or answer to the person in charge of directing the defense of claims filed against the hospital;

(c) Leaving a copy of the complaint, response or answer with a person of suitable age and discretion who is present at the office of the ~~[chief executive officer]~~ *administrator* of the hospital;

(d) Leaving a copy of the complaint, response or answer with a person of suitable age and discretion who is present at the office of the person in charge of directing the defense of claims filed against the hospital; or

(e) If the hospital is represented by an attorney in the proceedings before the screening panel, by delivering a copy of the complaint, response or answer to the attorney.

Sec. 8. NAC 41A.0435 is hereby amended to read as follows:

Except as otherwise provided by NAC 41A.044, if a complaint, answer or response filed with the division pursuant to chapter 41A of NRS or this chapter is served by personal service, it must be accompanied by an affidavit of service *or a declaration in the form described in NRS 53.045(1)* that includes the information in the caption required by NAC 41A.042 and is in substantially the following form:

AFFIDAVIT OF SERVICE

State of }

}ss.

County of)

..... (Name of affiant), being duly sworn says:

1. I am a citizen of the United States.
2. I am over 18 years of age and not a party to nor interested in the above-entitled action.
3. On (date of receipt of pleading), I received a copy of the(complaint, answer or response) for service upon the (claimant or respondent).

4. On (date of service), I served the..... (complaint, answer or response) upon the (claimant or respondent) by leaving a copy with (name of person with whom copy of the complaint, answer or response was left) at (address where complaint, answer or response was served).

FURTHER, AFFIANT SAYETH NAUGHT.

Dated this day of,

By:

Signature of affiant

Name of affiant (Print or type)

State of.....

County of.....

Signed or attested before me on (day) by

.....

(Name or names of persons)

(Seal, if any)

Signature of notarial officer

Title and rank (optional)

My commission expires (optional):

or:

If executed in this state: "I declare under penalty of perjury that the foregoing is true and correct."

Executed on (date), by (signature)

Sec. 9. NAC 41A.044 is hereby amended to read as follows:

If an answer or response filed with the division pursuant to chapter 41A of NRS or this chapter is served upon an attorney who represents a party in a case pending before the screening panel, it must be accompanied by a receipt of copy that includes the information in the caption required by NAC 41A.042 and is in substantially the following form:

~~RECEIPT OF COPY~~

RECEIPT OF A COPY of the (name of document) is hereby acknowledged this day of,

Signature of attorney

Name ***and address, telephone number and, if available email address*** of attorney (Print or type)

Sec. 10. NAC 41A.045 is hereby amended to read as follows:

If a claimant is deceased, the person verifying the complaint and signing the release of health care or dental records must provide proof of his authority to sign the documents. The evidence of authority to sign must be included with the complaint at the time it is filed. A death certificate is not sufficient to established proof of authority.

Sec. 11. NAC 41A.050 is hereby amended to read as follows:

A party, in his complaint or answer:

1. May include any material or document he believes will assist the screening panel in its deliberations.

2. May submit an affidavit which contains a written opinion of an expert on the issue of the appropriate standard of care and any breach or adherence to this standard which should or should not be considered malpractice. In addition to the conclusion on the existence of malpractice, the affidavit must contain the rationale which is the basis for the conclusion and cite specific portions of the medical or dental record supporting the conclusion. A biographical statement, outlining the qualifications of the expert must also be submitted. The biographical statement may *not* be included as part of the affidavit. An affidavit submitted pursuant to this section must be signed by the expert under penalty of perjury or subscribed before a notary public.

Sec. 12. NAC 41A.055 is hereby amended to read as follows:

1. A document may be filed with the division for review by a screening panel by personally delivering the document, mailing it through the United States mail or delivering it by private courier or express delivery service.

2. Except as otherwise provided in NAC 41A.088, any document filed with the division for review by a screening panel must be received by the division *on or* before the deadline for filing.

Sec. 13. NAC 41A.060 is hereby amended to read as follows:

1. A respondent may, at the time he files his answer, file a cross-claim against another person named in the original complaint or a person not named in the original complaint.

2. All claims or allegations of medical or dental malpractice arising out of the transaction or occurrence which is the subject of a complaint of medical or dental malpractice or any subsequent cross-claim ~~[with]~~ *shall* be consolidated and presented to the same screening panel. The panel shall make separate findings as to each person against whom a complaint or cross-claim is filed.

3. A cross-claim must be filed in the same manner as an original complaint of medical or dental malpractice.

4. A respondent who wishes to file a cross-claim may request that a claimant submit to him an executed release of health care or dental records in the name of each cross-respondent who was not named in the original complaint.

5. A claimant shall submit to the respondent those executed releases requested pursuant to subsection 4 if the respondent provides the claimant with a list of names of the cross-respondents who were not named in the original complaint.

Sec. 14. NAC 41A.065 is hereby amended to read as follows:

1. An attorney who files a complaint, answer or response with the division must be licensed to practice in this state. Upon application, an exception to this requirement will be made:

(a) If the attorney can demonstrate his legal representation on 10 or more medical or dental malpractice cases filed with the division; and

(b) Upon approval by the commissioner of insurance.

2. An attorney who participates in a conference *call* held pursuant to subsection 1 of NRS 41A.043 must be licensed to practice in this state.

Sec. 15. NAC 41A.067 is hereby amended to read as follows:

If a party to a case pending before the screening panel wishes to change his attorney, he must file a notice of substitution of attorney with the division. The notice of substitution of attorney must include the information in the caption required by NAC 41A.042 and must be in substantially the following form:

NOTICE OF SUBSTITUTION OF ATTORNEY

.....(Name of attorney to be substituted) is hereby substituted as attorney for.....
(name of claimant or respondent), the.....(claimant or respondent) in the above-entitled
action, in place and instead of(name, Nevada State Bar number, address, telephone
number and, if available, the email address of attorney of record)

Dated this day of,

Signature of Claimant or Respondent

Name of Claimant or Respondent (Print or type)

I hereby consent to the above substitution.

Dated this day of,

Signature of attorney of record

Name of attorney of record (Print or type)

I hereby accept the above substitution as attorney for..... (name of claimant or respondent),
the.....(claimant or respondent) in the above-entitled action.

Dated this day of,

Signature of attorney to be substituted

Name of attorney to be substituted (Print or type)

Sec. 16. NAC 41A.069 is hereby amended to read as follows:

1. If an attorney who represents a party in a case pending before the screening panel wishes to withdraw as attorney of record, he must:

- (a) File with the division a notice of withdrawal;
- (b) Serve the notice of withdrawal upon all parties, including the party he represents; and
- (c) Attach to the notice of withdrawal that is filed pursuant to paragraph (a), proof of service

by personal service or by certified or registered mail of a copy of the notice of withdrawal.

2. The notice of withdrawal must include, without limitation:

(a) The signature of the attorney of record, name, Nevada State Bar number, address, telephone number and, if available, the email address;

(b) The current or last known telephone number of the party he represents; and

(c) The current or last known address at which that party may be served with notice of further proceedings.

Sec. 17. NAC 41A.070 is hereby amended to read as follows:

In addition to the requirements set forth in NAC 41A.040 for proof of service of a complaint, answer or response and accompanying documents, any other written communication concerning a matter ~~[complaint of medical or dental malpractice]~~ filed pursuant to the provisions of NAC 41A.040 must be served upon all parties and the division. Such documents may be served by personal service or by regular ~~[, certified or registered]~~ mail or by private courier or express delivery service. If the document is served by personal service, it must be completed in the manner provided in NAC 41A.043. Proof of service must be attached to the communication.

Sec. 18. NAC 41A.075 is hereby amended to read as follows:

After the original complaint has been filed, ~~all~~ *any other* documents filed with the division must include the case number assigned by the division.

Sec. 19. NAC 41A.080 is hereby amended to read as follows:

All fees ~~must~~ *may* be paid by check, made payable to the division. The fees will not be refunded.

Sec. 20. NAC 41A.082 is hereby amended to read as follows:

1. The form for the release of health care or dental records pursuant to paragraph (e) of subsection 1 of NAC 41A.040 must be authenticated by a notary public *or by a declaration in the form described in NRS 53.045*(1) and be in substantially the following form:

(a) For a complaint of medical malpractice:

RELEASE OF HEALTH CARE RECORDS

TO: (Custodian of health care records)

RE:

Health care records of(name of claimant)

Date of birth.

Social security number.

You are hereby authorized and directed to deliver or furnish to(name of respondent) or his attorney, at his expense, copies of any health care records of.....(name of claimant). This release includes, but is not limited to, written medical information, medical reports, X-rays, C-Scans, films, hospital charts, notes, orders or other records of the hospital or physician, records of treatment, copies of prescriptions, medical or hospital bills, tests and any other records concerning the past, present or future physical condition of the claimant.

This release is made only for review of the health care records by the screening panel and is not a waiver of the claimant's privilege of confidentiality concerning the content of those records for any other purpose.

(Signature of claimant)

Name of claimant (Print or type)

State of..

County of.....

Signed or attested before me on

(day) by

(name or names of persons)

(Seal, if any)

Signature of notarial officer

Title and rank (optional)

My commission expires (optional):

(b) For a complaint of dental malpractice:

RELEASE OF DENTAL RECORDS

TO: (Custodian of records)

RE:

Dental records of(name of claimant)

Date of birth.

Social security number.

You are hereby authorized and directed to deliver or furnish to.....(name of respondent) or his attorney, at his expense, copies of any health care or dental records of.....(name of claimant). This release includes, but is not limited to, written medical information; medical or dental reports; X-rays; C-Scans; films; hospital charts; notes, orders or other records of the hospital, physician or dentist; records of treatment; copies of prescriptions; medical, dental or hospital bills; tests and any other records concerning the past, present or future physical condition of the claimant.

This release is made only for review of the health care and dental records by the screening panel and is not a waiver of the claimant's privilege of confidentiality concerning the content of those records for any other purpose.

(Signature of claimant)

Name of claimant (Print or type)

State of..

County of.....

Signed or attested before me on

(day) by

(name or names of persons)

(Seal, if any)

Signature of notarial officer

Title and rank (optional)

My commission expires (optional):

2. A copy of an executed release of health care or dental records that is filed with the division pursuant to paragraph (e) of subsection 1 of NAC 41A.040 shall be deemed to have the same force and effect as an original executed release.

Sec. 21. NAC 41A.085 is hereby amended to read as follows:

1. A person who requests that the division, pursuant to NRS 41A.033, obtain health care or dental records, statements of policy and procedure, or other materials concerning a claim of medical or dental malpractice must submit to the division a written request for the issuance of a subpoena. The request must be:

(a) Signed by that person's attorney or contain a statement that the person is not represented by an attorney; *and*

(b) Accompanied by an original and two copies of the proposed subpoena for the material requested which must:

(1) ~~Be prepared in the form approved by the division;~~

~~(2)~~ Have a space to be filled in by the division for the date of compliance with the subpoena;

~~(3)~~ 2. Clearly identify the material sought; and

~~(4)~~ 3. Contain the name and current address of the person to whom the subpoena is to be directed; and

(4) Pursuant to NRS 41A.046, the materials subpoenaed must be delivered to the division and;

(c) Accompanied by an affidavit *or declaration* which explains the relevance of the materials requested in the subpoena to the claim for medical or dental malpractice.

2. If the person who submits a request for the issuance of a subpoena has a claim of medical or dental malpractice, his request must also be accompanied by a current, notarized *or authenticated* document authorizing the release of all his pertinent health care or dental records to the division, the screening panel, and the respondent or his attorney.

3. The requesting party shall be responsible for any costs related to production of the subpoenaed records or items and shall include in the subpoena a statement that advises the entity being subpoenaed with the name and address of the party or attorney responsible for payment.

4. If the requesting party wants a separate copy of the subpoenaed items, the subpoena shall so state.

Sec. 22. NAC 41A.088 is hereby amended to read as follows:

A stipulation filed with the division for an extension of time within which to file an answer or a response must state the date the document is due, must include the signature of each party or his attorney and must be accompanied by an order for the signature of the commissioner of insurance or his designee. This division may accept a stipulation for an extension of time after the date on which the answer or response is due. The order ~~[must]~~ *may* be on a separate page, ~~[must include the information in the caption required by NAC 41A.042]~~ and must be in substantially the following form:

APPROVAL OF STIPULATION FOR AN EXTENSION OF TIME

Pursuant to the stipulation signed by all the parties in this case,(name of the claimant or respondent) has to and including (exact due date of pleading), to file his (answer or response) with the division.

Dated this day of,

By:

Medical/Dental Screening Panel

Sec. 23. NAC 41A.091 is hereby amended to read as follows:

A request for the continuance of a conference *call* held pursuant to subsection 1 of NRS 41A.043 must be submitted to the division, in writing or by telephone, at least 2 business days before the date scheduled for the conference. The party requesting the continuance must:

1. Contact each party to the conference *call*;
2. Obtain the agreement of each party to a new date and time for the conference *call*; and
3. Confirm in writing the new date and time scheduled for the conference *call* with each party and the division.

Sec. 24. NAC 41A.095 is hereby amended to read as follows:

1. A motion requesting the consolidation of cases pending before the screening panel may be filed with the division when the cases to be consolidated share a common question of fact and it is appropriate for the same screening panel to evaluate the cases. A motion to consolidate cases must:

(a) Be filed as soon as it is known that a case should be consolidated with another case, but not later than 10 days after the date on which the party filing the motion received the answers of all respondents;

(b) Specify the date on which the party filing the motion received the answers of all respondents;

(c) Identify the cases pending before the screening panel which the motion seeks to consolidate; and

(d) Be accompanied by an affidavit stating good cause why the cases should be consolidated.

2. A motion for consolidation must be served:

(a) Upon all the parties to the cases sought to be consolidated;

(b) ~~On the same day it is filed with the division;~~ and

~~(e)~~ By certified mail or personal service with proof of service provided to the division.

3. Any objections to the motion for consolidation must be filed not later than 10 days after the date on which the motion for consolidation is filed with the division.

Sec. 25. NAC 41A.100 is hereby amended to read as follows:

The division ~~will~~ *shall in writing* notify each party in a claim of medical or dental malpractice of the findings of the screening panel within 10 business days after the panel renders its findings.

Sec. 26. NAC 41A.111 is hereby amended to read as follows:

1. ~~The provisions of Supreme Court Rules 43, 44, 45 and 47, in effect on March 1, 1986, apply to the representation of a party before a screening panel and are hereby adopted by reference.~~

2. ~~Rule 6(a) of the Nevada Rules of Civil Procedure, in effect on March 16, 1964, applies to the computation of the periods prescribed pursuant to this chapter.~~

3. ~~Rule 6(e) of the Nevada Rules of Civil Procedure, in effect on March 1, 1986, applies to the computation of additional time after service by mail and is hereby adopted by reference.~~

~~4.]~~ Nevada Supreme Court Rules 43, 44, 45 and 47 concerning representation of a party are hereby adopted by reference.

2. To the extent not otherwise specifically provided for in either chapter 41A of NRS or this chapter, the Nevada Rules of Civil Procedure including any amendments or additions as may be adopted.

3. Copies of the rules adopted in this section may be obtained from the *internet at <http://www.leg.state.nv.us/NAC/NAC-041A.html>* or the publications Unit of the Legislative Counsel Bureau in the Legislative Building, 401 South Carson Street, Carson City, Nevada 89710, for the *approximate* price of \$30.80.

Sec. 27. NAC 41A.121 is hereby amended to read as follows:

A claim of medical or dental malpractice~~[, and]~~ *including* all related pleadings, documents, and records, filed with the division for the screening panel ~~[is]~~ *are* confidential and must not be disclosed to the public.

Sec. 28. NAC 41A.131 is hereby amended to read as follows:

A person who is designated to serve on ~~[a tentative]~~ *the list of potential* screening panel for 2 consecutive years shall attend the course of instruction required by NRS 41A.024 before he may serve for a third consecutive year, unless he can demonstrate to the commissioner of insurance that he has reviewed the most recent material of the course of instruction.