

LCB File No. T004-02

ADOPTED TEMPORARY REGULATION OF THE DIVISION
OF INSURANCE OF THE DEPARTMENT
OF BUSINESS AND INDUSTRY

Filed with the Secretary of State on March 5, 2003

REGULATIONS FOR HEALTH ENTITIES
RISK BASED CAPITAL REPORTING REQUIREMENTS

Explanation-Matter *bold/italics* is new, matter in ~~[brackets/strikethrough]~~ is material to be omitted.

Authority: NRS 679B.130

Section 1. NAC 695C.130 is amended as follows:

1. Except as otherwise provided in this section, a health maintenance organization which receives a certificate of authority shall maintain and report on its financial statement filed with the commissioner pursuant to NRS 695C.210 a minimum net worth in an amount *which is the greater of:*

(a) ~~[Equal to]~~ \$1,500,000; or

(b) ~~[Equal to]~~ 2 percent of the first \$150,000,000 earned as revenue from premiums collected in the preceding 12-month period, plus 1 percent of the amount in excess of \$150,000,000 earned as revenue from premiums collected in the preceding 12-month period ~~[, whichever is greater.]; or~~

(c) The Risk Based Capital amount as calculated by the organization in the Risk Based Capital Report as required by NRS 681B.290 and NAC 681B. For purposes of this section, the provisions of NRS 681B.290 which are applicable to an insurer shall apply to a health maintenance organization.

2. In addition to the requirements set forth in subsection 1, a health maintenance organization which receives a certificate of authority shall maintain:

(a) A surety bond or deposit of cash or securities for the protection of enrollees of not less than \$250,000.

(b) A contract of stop-loss insurance as required by NAC 695C.135 for new health maintenance organizations.

(c) A blanket fidelity bond as required by NAC 695C.120 for new health maintenance organizations.

(d) The operating, premium tax and insolvency reserves required for new health maintenance organizations.

3. If the commissioner determines that the financial condition of a health maintenance organization fails to comply with the conditions set forth in NRS 695C.090, he may require the organization to:

(a) Maintain a net worth that is greater than the amount required by subsection 1;

(b) Obtain a written guarantee from a business which has sufficient surplus and an adequate history of generating net income to guarantee the maintenance of the minimum net worth of the health maintenance organization required by subsection 1 and obtain approval of the written guarantee and guarantor from the commissioner; or

(c) Comply with paragraphs (a) and (b).

4. If a health maintenance organization proposes to make a material modification to its approved plan of operations, it shall submit a copy of its proposed modification to the commissioner. The commissioner may, as a condition of approval for the proposed modification by the health maintenance organization, require the health maintenance organization to increase

the amount of reserves, deposits, bonds or minimum net worth it is required to maintain. The commissioner may, in making such a determination, consider the conditions set forth in NRS 695C.090.

Section 2. NAC 695D.300 is hereby amended to read as follows:

An organization *for dental care* shall maintain:

1. *The greater of:*

(a) A capital account with a net worth, according to the number of members in the organization, of not less than the following amounts:

Number of Members Net Worth

Less than 2,500 \$50,000

2,500 to 5,000 \$75,000

5,000 or more \$125,000; or

(b) A capital account with a net worth equal to the Risk Based Capital amount as calculated by the organization in the Risk Based Capital Report as required by NRS 681B.290 and NAC 681B. For purposes of this section, the provisions of NRS 681B.290 which are applicable to an insurer shall apply to an organization for dental care.

2. Except as otherwise provided in this subsection, a surety bond or deposit of cash or securities for the protection of members of not less than the amount required by NRS 695D.170. The commissioner will allow the bond or deposit to be reduced to \$125,000 until the organization has 5,000 members.

3. A collective fidelity bond issued by an authorized insurer in an amount of not less than \$1,000,000.

4. A contract of insurance providing that, in the event the organization is declared insolvent by the division or a court of competent jurisdiction, the insurer will pay all claims made by a member from the first dollar of eligible expenses for a period of not less than 60 days. If this coverage is canceled, written notice of the cancellation must be given to the division by the organization and its insurer not less than 90 days before the cancellation becomes effective. The insurer may require the organization to include in its agreements with its providers, a requirement that the provider accept any assignment made by the organization to the insurer for the continuation of benefits upon the insolvency of the organization.

5. A contract of insurance to stop the losses of the organization, in an amount acceptable to the commissioner.

6. The reserves required by NRS 695D.250 must be segregated in a trust fund located in a federally insured financial institution in this state. The reserves held for taxes on premiums must be kept in a similar trust fund. Any interest earned on either fund may be credited to the organization.

Section 3. Chapter 695F of NAC is hereby amended by adding a new section to read as follows:

Each prepaid limited health service organization shall maintain the greater of:

- 1. A capital account with a net worth as required by NRS 695F.200; or*
- 2. A capital account with a net worth equal to the Risk Based Capital amount as calculated by the organization in the Risk Based Capital Report as required by NRS 681B.290 and NAC 681B. For purposes of this section, the provisions of NRS 681B.290 which are applicable to an insurer shall apply to a prepaid limited health service organization.*

**ADOPTED TEMPORARY REGULATION OF THE DIVISION
OF INSURANCE OF THE DEPARTMENT
OF BUSINESS AND INDUSTRY
LCB File No. T004-02**

INFORMATIONAL STATEMENT

A hearing was held on September 18, 2002, at the offices of the Department of Business and Industry, Division of Insurance (Division), 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, with a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104, regarding the adoption of the temporary regulation concerning the health entities risk based capital requirements.

Public comment was solicited by posting notice of the hearing in the following public locations: 788 Fairview Drive, Legislative Counsel Bureau, Capitol Building Lobby, Carson City Courthouse, State Library, County Libraries, Capitol Press Room and the Division's Las Vegas Office.

In addition, the Division maintains a list of interested parties, comprised mainly of insurance companies, agencies and other persons regulated by the Division. These persons were notified of the hearing and that copies of the regulation could be obtained from or examined at the offices of the Division in Carson City.

Oral testimony was received by the Division. Copies of any comments received by the Division can be obtained from the Division at 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, (775) 687-4270.

Considering the comments by those attending the hearing, the Commissioner has issued an order adopting the regulation as a temporary regulation of the Division.

Based upon the testimony received at the hearing, the temporary regulation was changed from the proposed temporary regulation as follows:

1. Section 1 of the proposed temporary regulation is now Section 3.
2. Section 2 of the proposed temporary regulation is now Section 1.
3. Section 3 of the proposed temporary regulation is now Section 2.
4. Subsection 1 of section 1 is amended to read as follows:

Except as otherwise provided in this section, a health maintenance organization which receives a certificate of authority shall maintain and report on its financial statement filed with the commissioner pursuant to NRS 695C.210, a minimum new worth in an amount *which is the greater of:*

- (a) ~~Equal to~~ \$1,500,000; or
- (b) ~~Equal to~~ 2 percent of the first \$150,000,000 earned as revenue from premiums collected in the preceding 12-month period, plus 1 percent of the amount in excess of \$150,000,000 earned as revenue from premiums collected in the preceding 12-month period ~~[, whichever is greater.]; or~~

(c) The Risk Based Capital amount as calculated by the organization in the Risk Based Capital Report as required by NRS 681B.290 and NAC 681B. For the purposes of this section, the provisions of NRS 681B.290 which are applicable to an insurer shall apply to a health maintenance organization.

5. Subsection 1 of section 2 is amended to read as follows:

An organization *for dental care* shall maintain:

1. *The greater of:*

(a) A capital account with a net worth, according to the number of members in the organization, of not less than the following amounts:

Number of Members	Net Worth
Less than 2,500	\$ 50,000
2,500 to 5,000	\$ 75,000
5,000 or more	\$125,000; or

(b) A capital account with a net worth equal to the Risk Based Capital amount as calculated by the organization in the Risk Based Capital Report as required by NRS 681B.290 and NAC 681B. For purposes of this section, the provisions of NRS 681B.290 which are applicable to an insurer shall apply to an organization for dental care.

6. Section 3 is amended to read as follows:

Chapter 695F of NAC is hereby amended by adding a new section to read as follows:

Each prepaid limited health service organization shall maintain the greater of:

1. *A capital account with a net worth as required by NRS 695F.200; or*

2. *A capital account with a net worth equal to the Risk Based Capital amount as calculated by the organization in the Risk Based Capital Report as required by NRS 681B.290 and NAC 681B. For purposes of this section, the provisions of NRS 681B.290 which are applicable to an insurer shall apply to a prepaid limited health service organization.*

The economic impact of the temporary regulation is as follows:

(a) Regulated Industry: Minimal.

(b) Public: None.

The temporary regulation imposes no direct costs upon members of the public at large. The temporary regulation imposes no direct cost upon the agency to enforce the regulation.

This temporary regulation does not duplicate or overlap any other regulation.

**STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE**

**IN THE MATTER OF THE TEMPORARY
REGULATION CONCERNING:**

CAUSE NO. 02.266

**HEALTH ENTITIES RISK BASED
CAPITAL REPORTING REQUIREMENTS**

**SUMMARY OF PROCEEDINGS
AND ORDER**

_____ /

A hearing on the proposed temporary regulation concerning health entities risk based capital reporting requirements was held before the Commissioner of Insurance (Commissioner), on September 18, 2002, at the offices of the Department of Business and Industry, Division of Insurance (Division), 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, with a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104. Immediately prior to the hearing, the Commissioner held a workshop concerning this matter.

The Division did not receive any written comments. Approximately four individuals attended the hearing. Testimony was received at the hearing from Jack Kim, representing Sierra Health Services; Kay Lockhart, representing Nevada Independent Insurance Agents; Janet Hess, Deputy Attorney General, Bruce Heffner and Bob Burch, representing the Division.

Mr. Burch testified that the intent of the temporary regulation was to require health entities, licensed under Chapter 695C, 695D or 695F of the Nevada Administrative Code (NAC), to meet certain risk based capital filing requirements.

Commissioner Molasky-Arman noted that the various Chapters 695C, 695D and 695F do not contain the definition of an insurer and requested a reference to Nevada Revised Statute (NRS) 681B.290 be included.

Bob Burch responded that the change would be made to the proposed temporary regulations for all three chapters.

Bruce Heffner suggested the wording “the greater of” be included in the beginning portion of the subsection rather than at the end for each of these chapters for better clarification.

Commissioner Molasky-Arman stated the regulation should be very clear and requested the regulation be changed to Mr. Heffner’s suggestion.

Commissioner Molasky-Arman noted the sections of the proposed temporary regulation should be in the order of the chapters and requested the sections be rearranged in the proper order.

Bob Burch responded the changes will be made.

Commissioner Molasky-Arman asked if there were any thing further. She asked the staff to prepare the informational statement and the order adopting this regulation.

Based upon the testimony received at the hearing, the temporary regulation was changed from the proposed temporary regulation as follows:

1. Section 1 of the proposed temporary regulation is now Section 3.
2. Section 2 of the proposed temporary regulation is now Section 1.
3. Section 3 of the proposed temporary regulation is now Section 2.
4. Subsection 1 of section 1 is amended to read as follows:

Except as otherwise provided in this section, a health maintenance organization which receives a certificate of authority shall maintain and report on its financial statement filed with the commissioner pursuant to NRS 695C.210, a minimum new worth in an amount *which is the greater of:*

(a) ~~Equal to~~ \$1,500,000; or

(b) ~~Equal to~~ 2 percent of the first \$150,000,000 earned as revenue from premiums collected in the preceding 12-month period, plus 1 percent of the amount in excess of \$150,000,000 earned as revenue from premiums collected in the preceding 12-month period ~~[, whichever is greater.]; or~~

(c) The Risk Based Capital amount as calculated by the organization in the Risk Based Capital Report as required by NRS 681B.290 and NAC 681B. For the purposes of this section, the provisions of NRS 681B.290 which are applicable to an insurer shall apply to a health maintenance organization.

5. Subsection 1 of section 2 is amended to read as follows:

An organization *for dental care* shall maintain:

1. *The greater of:*

(a) A capital account with a net worth, according to the number of members in the organization, of not less than the following amounts:

Number of Members	Net Worth
Less than 2,500	\$ 50,000
2,500 to 5,000	\$ 75,000
5,000 or more	\$125,000; or

(b) A capital account with a net worth equal to the Risk Based Capital amount as calculated by the organization in the Risk Based Capital Report as required by NRS 681B.290 and NAC 681B. For purposes of this section, the provisions of NRS 681B.290 which are applicable to an insurer shall apply to an organization for dental care.

6. Section 3 is amended to read as follows:

Chapter 695F of NAC is hereby amended by adding a new section to read as follows:

Each prepaid limited health service organization shall maintain the greater of:

1. *A capital account with a net worth as required by NRS 695F.200; or*

2. *A capital account with a net worth equal to the Risk Based Capital amount as calculated by the organization in the Risk Based Capital Report as required by*

NRS 681B.290 and NAC 681B. For purposes of this section, the provisions of NRS 681B.290 which are applicable to an insurer shall apply to a prepaid limited health service organization.

ORDER

Based upon the information presented at the hearing, it is hereby ordered that the proposed temporary regulation relating to health entities risk based capital reporting requirements, be adopted, as amended, as a temporary regulation of the Division.

SO ORDERED this _____ day of February, 2003.

ALICE A. MOLASKY-ARMAN
Commissioner of Insurance