

**ADOPTED REGULATION OF THE
SECRETARY OF STATE**

LCB File No. R040-03

Effective December 4, 2003

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

AUTHORITY: §§1-5, NRS 720.150.

Section 1. NAC 720.200 is hereby amended to read as follows:

720.200 The Secretary of State hereby adopts by reference:

1. The technical standards designated as *X.509, version 3*, as adopted by the International Telecommunication Union. A copy of those standards may be obtained from the Office of the Secretary of State, 101 North Carson Street, Suite 3, Carson City, Nevada 89701-4786, for the price of \$22.50.

2. The provisions of the ~~*{Protection Profile for Commercial Security 2, Augmented Controlled Access Protection, version 0.1,}*~~ *CSPP - Guidance for COTS Security Protection Profiles, version 1.0*, as developed by the National Institute of Standards and Technology ~~*{}*~~ *of the Technology Administration of the United States Department of Commerce*. A copy of those provisions may be obtained from the Office of the Secretary of State, 101 North Carson Street, Suite 3, Carson City, Nevada 89701-4786, for the price of \$9.50.

3. *The provisions of the WebTrust Program for Certification Authorities, version 1.0, as developed by the American Institute of Certified Public Accountants and the Canadian Institute of Chartered Accountants. A copy of those provisions may be obtained from the*

Office of the Secretary of State, 101 North Carson Street, Suite 3, Carson City, Nevada 89701-4786, for the price of \$9.50.

Sec. 2. NAC 720.270 is hereby amended to read as follows:

720.270 Except as otherwise provided in NAC 720.260, the Secretary of State may issue a license to or renew the license of a certification authority who meets the qualifications for a license set forth in NAC 720.250 and submits to the Secretary of State:

1. A completed application that complies with the requirements of NAC 720.280 . ~~{ }~~
2. The amounts required pursuant to NAC 720.430 and 720.810 . ~~{ }~~
3. Proof of his identity ~~{ }~~ *or if the certification authority is a business entity, proof of*

existence and good standing of the certification authority in the following form:

(a) If the certification authority is formed, incorporated, organized, registered, qualified to transact business or otherwise created in the State of Nevada pursuant to the provisions of title 7 of NRS, a certificate of existence and good standing from the Secretary of State. To comply with the provisions of this paragraph, the certification authority must submit a separate application to the Secretary of State to receive a certificate of existence and good standing.

(b) If the certification authority is formed, incorporated, organized, registered, qualified to transact business or otherwise created in a state or territory other than the State of Nevada, in the District of Columbia, in a possession of the United States or in a foreign country, a certificate of existence and good standing if the jurisdiction has such a certificate, or an equivalent form signifying that the certification authority has been formed, incorporated, organized, registered, qualified to transact business or otherwise created in that jurisdiction from the appropriate governmental agency of each jurisdiction in which the certification

authority is formed, incorporated, organized, registered, qualified to transact business or otherwise created.

4. Proof that he has suitable insurance . ~~{;}~~

5. A report of an audit of the policies, practices, procedures, facilities and computer hardware and software of the applicant which:

(a) Establishes that the applicant operates a trustworthy system; and

(b) Was obtained pursuant to an audit performed in compliance with the requirements of NAC 720.320 and 720.330, except that the audit and report required for the initial issuance of a license is not required to include any matters other than compliance with the requirements of paragraph (a) . ~~{;}~~

6. The documentation required pursuant to NAC 720.340 . ~~{; and}~~

7. A certification practice statement that complies with the requirements of NAC 720.360.

Sec. 3. NAC 720.300 is hereby amended to read as follows:

720.300 A licensee shall maintain such policies, practices, procedures and facilities as are necessary to ensure that his system of computer hardware and software:

1. Is reasonably secure from intrusion and misuse;

2. Provides a reasonable level of availability, reliability and correct operation;

3. Is reasonably suited to performing its intended functions; and

4. Is in material compliance with the provisions of the ~~{Protection Profile for Commercial Security 2, Augmented Controlled Access Protection, version 0.1,}~~ CSPP - Guidance for COTS Security Protection Profiles, version 1.0 and the WebTrust Program for Certification

Authorities, version 1.0, as adopted by reference pursuant to NAC 720.200. The Secretary of State will determine whether compliance is material:

- (a) In accordance with the provisions of this chapter; and
- (b) In a manner that is consistent with state and federal law and reasonable for the context in which the system is used.

Sec. 4. NAC 720.340 is hereby amended to read as follows:

720.340 **1.** An applicant for the issuance or renewal of a license must submit to the Secretary of State such documentation as the Secretary of State requires to ensure that all operative personnel of the applicant are qualified to act in that capacity. The documentation must include, for each person who acts in that capacity:

~~[(a)]~~ **(a)** A declaration, executed by the person under penalty of perjury, that:

~~[(a)]~~ **(1)** Specifies his name, including all names by which he has been known in the past, his date of birth and his business address; and

~~[(b)]~~ **(2)** Specifies each country, other than the United States, in which the person resided during the past 5 years and states the period of that residency~~[-~~

~~—2. A written review of the criminal history of the person which indicates that the person has]~~

;

(b) Two sets of fingerprint cards that have been completed by a recognized law enforcement agency;

(c) An executed Law Enforcement Record Form No. 3321-SA or equivalent authorization for the release of information contained in records of law enforcement;

(d) Written authorization for the Secretary of State to submit the fingerprint cards to the Central Repository for Nevada Records of Criminal History for further submission to the Federal Bureau of Investigation and to receive reports regarding the criminal histories of the subjects of the fingerprint cards; and

(e) The amount of the fees charged by any local agencies of law enforcement, the Central Repository for Nevada Records of Criminal History, and the Federal Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories.

2. For the issuance or renewal of a license, the reports received pursuant to subsection 1 must indicate that the applicant and all operative personnel of the applicant:

(a) Have not been convicted in any jurisdiction during the ~~[past]~~ 7 years immediately preceding the date the application for the issuance or renewal of a license is submitted of any felony ; and ~~[has]~~

(b) Have never been convicted in any jurisdiction of a crime involving fraud, deception or a false statement . ~~[, unless the requirements of this subsection have been satisfied for a particular person within the past 2 years by the current or a previous applicant. The review must include reports of the criminal history of the person that are:~~

~~—(a) Compiled and certified by:~~

~~——(1) The Central Repository for Nevada Records of Criminal History or the local law enforcement agency for the area where the person resided and was employed for the previous 7 years; and~~

~~——(2) The local law enforcement agency for such other jurisdictions as the Secretary of State requires;~~

~~—(b) Dated not more than 30 days before the date of their submission to the Secretary of State; and~~

~~—(c) Reasonably sufficient to disclose any criminal convictions during the previous 7 years in any jurisdiction in the United States and its territories and possessions, and in any other jurisdiction specified pursuant to paragraph (b) of subsection 1.]~~

Sec. 5. NAC 720.350 is hereby amended to read as follows:

720.350 1. A licensee shall not allow any person to undertake any of the responsibilities or duties of his operative personnel if the licensee knows or, based upon the ~~documentation described in~~ *records provided to the Secretary of State pursuant to* NAC 720.340, should know that the person ~~has~~ :

(a) *Has* been convicted in any jurisdiction during the ~~past~~ 7 years *immediately preceding the date the application for the issuance or renewal of a license is submitted* of any felony ; or ~~has~~

(b) *Has* ever been convicted in any jurisdiction of a crime involving fraud, deception or a false statement.

2. If a licensee discovers that a person who has undertaken any of the responsibilities or duties of his operative personnel has been convicted as described in subsection 1, the licensee shall:

(a) Immediately remove the person from that position; and

(b) Within 3 business days after making that discovery, notify the Secretary of State of his action to remove the person from that position.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R040-03**

The Secretary of State adopted regulations assigned LCB File No. R040-03 which pertain to chapter 720 of the Nevada Administrative Code on November 24, 2003.

Notice date: 10/23/2003
Hearing date: 11/24/2003

Date of adoption by agency: 11/24/2003
Filing date: 12/4/2003

INFORMATIONAL STATEMENT

The following statement is submitted for adopted amendments to Nevada Administrative Code chapter 720.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary:

Public comment was solicited by posting notices of the workshop and hearing at public libraries throughout the state and several other locations. The proposed regulation was also sent to the two entities that have been licensed pursuant to chapter 720. A summary of the public response is attached hereto in the form of the minutes of the workshop and hearing. Interested persons may obtain a copy of the minutes and written comments from the Nevada Secretary of State Office, ATTN Bru Ethridge, 101 North Carson St., Carson City, NV 89701, or by telephone to (775) 684-5749.

2. A statement indicating the number of persons who attended each meeting or workshop, testified at each hearing, and submitted written statements regarding the proposed regulation:

A. The number of persons who:

(a) Attended each workshop:	November 24, 2003	6
(b) Attended each hearing:	November 24, 2003	6
(c) Testified at each workshop:	November 24, 2003	2
(d) Testified at each hearing:	November 24, 2003	2
(e) Submitted written comments to the agency:		0

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary:

Public comment was solicited by posting the proposed regulation at public libraries throughout the State of Nevada and sending the proposed regulation to the two entities that have been licensed under chapter 720. There were no written comments received nor were there any

attendees at the workshop or hearing who were members of the public. The only attendees were employees of the Office of the Secretary of State, Attorney General's Office and Public Utilities Commission (technical support). See minutes, attached hereto. Interested persons may obtain a copy of the minutes and written comment from the Nevada Secretary of State's Office by mailing a request to Secretary of State, ATTN Bru Ethridge, 101 North Carson St., Carson City, NV 89701, or by telephone to (775) 687-5749.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change. The statement should also explain the reasons for making any changes to the regulation proposed.

The regulation was adopted without changing part of the proposed regulation, LCB file number R040-03. The reason no change was made was that no written or oral public comment was received pertaining to this regulation, and this regulation continues some of the changes made in a temporary regulation filed November 4, 2002.

5. The estimated economic effect of the adopted regulation on the business that it is to regulate and on the public. These must be stated separately, and each case must include: (a) both adverse and beneficial effects and (b) both immediate and long-term effects:

A. Estimated economic effect on any effected businesses:

This regulation has no significant economic effect on any business which is or may be licensed under chapter 720 of NRS. The changes in the regulation regarding application and renewal for licensees are minor and not overly burdensome, and therefore there is no adverse economic impact on any persons or businesses that use digital signatures. Businesses that choose to use electronic symbols as digital signatures will be able to continue to participate in electronic commerce and therefore would enjoy a beneficial effect.

(a) Adverse and beneficial effects:

There are no significant adverse economic affects on any businesses that choose to use electronic symbols as digital signatures. There are also no apparent significant beneficial economic effects from this regulation on any businesses that use digital signatures.

(b) Immediate and long-term effects:

There are no significant immediate or long-term effects of this regulation on any businesses that use digital signatures.

B. Estimated economic effect on the public:

It is estimated that the proposed regulation to be adopted and amended will not have any significant negative or positive economic effect on the public.

(a) Adverse and beneficial effects:

There are no adverse or beneficial effects to the public of this regulation.

(b) Immediate and long-term effects:

None.

6. The estimated cost to the agency for enforcement of the proposed regulation:

There is estimated to be no additional cost to the Nevada Secretary of State's Office for enforcement of the proposed regulation.

7. A description of any regulations of the state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The regulation does not overlap or duplicate any regulations of other state or local government agencies or of any federal agency.

8. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of those provisions.

Not applicable.

9. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.

The regulation adds a fee for "[t]he amount of the fees charged by any local agencies of law enforcement, the Central Repository for Nevada Records of Criminal History, and the Federal Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories." (See Section 4 of the proposed regulation, NAC 720.340(1)(e)). This fee would go directly to the entity named for the handling of the fingerprint cards and the issuance of the report of criminal history, and, therefore, the Secretary of State's Office would not retain this money. The amount the Secretary of State's Office expects to collect per year is nominal (under \$200.00 per year) because of the limited number of licensees in Nevada.