

**ADOPTED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R091-03

Effective September 24, 2003

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

AUTHORITY: §§1-7, NRS 679B.130 and section 164 of Senate Bill No. 250 of the 72nd Session of the Nevada Legislature, chapter 508, Statutes of Nevada 2003, at page 3480; §8, NRS 679B.130 and section 165 of Senate Bill No. 250 of the 72nd Session of the Nevada Legislature, chapter 508, Statutes of Nevada 2003, at page 3480.

Section 1. Chapter 690B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 8, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Policy of medical malpractice insurance” means a policy of professional liability insurance covering the liability of a practitioner licensed pursuant to chapter 630 or 633 of NRS.*

Sec. 4. *“Qualified risk management system” means a risk management system approved by the Commissioner pursuant to the provisions of section 6 of this regulation.*

Sec. 5. *“Risk management system” means a system of procedures designed to reduce:*

1. The risk of a claim of malpractice covered by a policy of medical malpractice insurance;

2. The costs related to a claim of malpractice covered by a policy of medical malpractice insurance; or

3. *Both the risk of a claim of malpractice and the costs related to a claim of malpractice covered by a policy of medical malpractice insurance.*

Sec. 6. 1. *A risk management system offered by an insurer issuing a policy of medical malpractice insurance to an insured pursuant to section 7 of this regulation must be approved by the Commissioner as a qualified risk management system before it is offered.*

2. *The insurer shall submit to the Commissioner an application on a form prescribed by the Commissioner for the approval of the risk management system as a qualified risk management system.*

3. *The Commissioner may approve a risk management system as a qualified risk management system if the Commissioner determines that the risk management system:*

(a) *Is designed to reduce:*

(1) *The risk of a claim of malpractice covered by a policy of medical malpractice insurance;*

(2) *The costs related to a claim of malpractice covered by a policy of medical malpractice insurance; or*

(3) *Both the risk of a claim of malpractice and the costs related to a claim of malpractice covered by a policy of medical malpractice insurance; and*

(b) *Consists of:*

(1) *A system for risk management developed by the insurer or a third party that is applicable to the medical specialty of the insured covered by the policy;*

(2) *Seminars or other training that provide instruction on risk management and qualify for continuing medical education credit; or*

(3) A program of instruction on communication skills, documentation techniques, litigation management techniques or other similar risk management techniques and a mechanism to verify compliance with the system by the insured.

Sec. 7. 1. *An insurer that issues a policy of medical malpractice insurance must offer a qualified risk management system to an insured.*

2. If the insured implements a qualified risk management system offered by the insurer, the rating plan of the insurer must provide for a reduction in the premium for the policy of professional liability insurance.

3. At the discretion of the insurer, the rating plan of the insurer may provide that the reduction in premium may be given:

(a) As a discount at the beginning of the period covered by the policy; or

(b) As a refund at the end of the period covered by the policy.

4. In addition to any other fees that may be a part of the rating plan of the insurer, the insurer may charge a reasonable fee as part of the rating plan for providing a qualified risk management system to an insured.

Sec. 8. 1. *Each insurer that issues a policy of medical malpractice insurance must submit a report to the Commissioner on the loss prevention and control programs of the insurer, including, without limitation, the qualified risk management systems offered by the insurer.*

2. On or before May 1 of each year, the Commissioner will provide to each insurer the form for making the report.

3. On or before July 1 of each year, the report must be returned to the Commissioner.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R091-03

The Division of Insurance of the Department of Business and Industry adopted regulations assigned LCB File No. R091-03 which pertain to chapter 690B of the Nevada Administrative Code on September 9, 2003.

Notice date: 7/24/2003
Hearing date: 8/26/2003

Date of adoption by agency: 9/9/2003
Filing date: 9/24/2003

INFORMATIONAL STATEMENT

A hearing was held on August 26, 2003, in Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, regarding the adoption of the regulation concerning medical professional liability insurance - risk management programs and loss prevention and control programs.

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

In addition, the Department of Business and Industry, Division of Insurance (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.

The hearing was attended by five people. Oral testimony in the form of support was provided by one person at the hearing; no written comments were received.

There were no revisions recommended nor made to the Proposed Regulation of the Commissioner of Insurance, LCB File No. R091-03, dated August 20, 2003. The Commissioner has issued an order adopting the regulation as a permanent regulation of the Division.

The economic impact of the regulation is as follows:

- (a) On the business it is to regulate:
 - (1) The regulation may have a beneficial impact on insured physicians as they may receive premium credits for implementing risk management and loss control programs.

- (2) The regulation may have a beneficial impact on insurance companies and their agents as the programs are designed to reduce the frequency of losses thereby improving loss experience.

(b) On the public:

- (1) The regulation may have a beneficial impact on the citizens of Nevada as medical professional liability insurance may be more affordable for the physicians and there may be fewer cases of medical malpractice occurring.

The Division anticipates a nominal expense to enforce the proposed regulation.

The Division is not aware of any overlap or duplication of the regulation with any state, local or federal regulation.