

LCB File No. R128-03

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

NOTICE OF WORKSHOPS TO SOLICIT COMMENTS ON PROPOSED REGULATIONS

The Department of Business and Industry, Division of Insurance (Division) is proposing new regulations pertaining to prompt payment to providers; complaints; determining minimum nonforfeiture amount for annuity insurance insurers; and medical professional liability insurance. A workshop has been set for 9:00 a.m., on October 2, 2003, at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701. Interested parties may also participate through a simultaneous video-conference conducted at the Bradley Building, 2501 East Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104. The purpose of the workshop is to solicit comments from interested persons on the following general topics addressed in the proposed regulations.

- 1. Prompt Payment to Providers.** The proposed regulation will amend Nevada Administrative Code (NAC) 686A.306 to clarify the reporting requirements on prompt payment to providers.
- 2. Complaints.** The proposed regulation ensures that complaint procedures and carrier reporting on complaints are consistent among all licensees under Title 57 of the Nevada Revised Statutes. The new sections added address the changes made by Assembly Bill 79 of the 72nd Session of the Nevada Legislature. Chapters 695C, 695F and 695G of the NAC are amended.
- 3. Determining Minimum Nonforfeiture Amount for Annuity Insurance Insurers.** Presently, chapter 688A of the Nevada Revised Statutes regulates life insurers regarding minimum nonforfeiture amounts. This regulation will extend the nonforfeiture determination compliance to include licensed insurers marketing annuity insurance pursuant to chapters 688A of the laws and regulations.
- 4. Medical Professional Liability Insurance.** Disclosure requirements; statistical reporting requirements; and reporting requirements on excess judgments or settlements.
- 5. External Review Organization Certification.** This regulation adds a new section to chapter 683A of the NAC as required by Assembly Bill 79 of the 72nd Session of the Nevada Legislature. The new section sets forth the provisions in which an External Review Organization is certified by the Commissioner.
- 6. Workers' Compensation Insurance (Industrial Insurance).** Certification procedures, provisions and requirements for external review organizations.

A copy of this notice and the proposed regulations 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 regulations 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 regulations 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 **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.

This Notice of Workshop to Solicit Comments on Proposed Regulations has been sent to all persons on the agency's mailing list for administrative regulations and 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
Las Vegas, NV 89101

Douglas County Library
1625 Library Lane
P.O. Box 337
Minden, NV 89423

Goldfield Public Library
Fourth & Cook Street
P.O. Box 430
Goldfield, NV 89013
Eureka Branch Library

Elko County Library
720 Court Street
Elko, NV 89801
Humboldt County Library

10190 Monroe Street
P.O. Box 293
Eureka, NV 89316

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

Lyon County Library
20 Nevin Way
Yerington, NV 89447

Mineral County Library
First & A Street
P.O. Box 1390
Hawthorne, NV 89415

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 August, 2003.

By: _____
ALICE A. MOLASKY-ARMAN
Commissioner of Insurance

LCB File No. R128-03

**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 9:00 a.m., on October 2, 2003, 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 East Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of:

**REGULATION CONCERNING EXTERNAL REVIEW ORGANIZATION
CERTIFICATION (AB 79)**

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. Assembly Bill 79 of the 72nd Session of the Nevada Legislature requires the Commissioner to adopt regulations for the certification of an External Review Organization.
2. Assembly Bill 79 of the 72nd Session of the Nevada Legislature set forth minimal requirements for certifying an external review organization and this regulation sets forth the specifics.
3. (a) There is no adverse effect to the public because of this regulation. There is a beneficial effect on the public because an External Review Organization is regulated by the Division. There is a no adverse or beneficial effect to the industry being regulated.

(b) The immediate and long-term effect on the industry and the public is that the External Review Organizations must be certified by the Division and must follow statutory requirements.
4. The Division will be licensing a new category of licensee. This will require the Division to expend additional funds for enforcement.
5. This regulation does not overlap any other state, local government, or federal regulations.
6. If the regulation is required pursuant to federal law, a citation and description of the federal law: Not applicable.

7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions: Not applicable.
8. There is a new fee :
 - Initial issuance of the Certification of an External Review Organization \$400
 - Annual Renewal fee for an External Review Organization \$100

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 September 25, 2003. 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 Press Room

Capitol Complex
Carson City, NV 89710

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
Las Vegas, NV 89101

Douglas County Library
1625 Library Lane
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

Clark County Library

950 Campton Street
Ely, NV 89301

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, (775) 687-4270, extension 260.

DATED this _____ day of August, 2003.

By:

ALICE A. MOLASKY-ARMAN
Commissioner of Insurance

LCB File No. R128-03

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

**Proposed Regulations Regarding the Certification
of an External Review Organization**

Authority: Section 2 of Assembly Bill 79 of the 72nd Session of the Nevada Legislature and NRS 679B.130:

Section 1. Chapter 683A of NAC is hereby amended by adding thereto a new section to read as follows:

1. Each application for a certificate to be certified as an external review organization, except as provided in subsection 2 of this section, must include or be accompanied by the completed application form prescribed by the commissioner and, in addition to any other relevant information required by the commissioner, an attestation that the applicant can meet the following requirements:

a. That the organization conducts its external review activities in accordance with the requirements of sections 16 to 28, inclusive, of Assembly Bill 79 of the 72nd Session of the Nevada Legislature, and it shall provide the following to the commissioner:

(1) The number of contracted external reviewers, including:

(a) The specialty of contracted reviewers;

(b) Whether it requires a contracted specialist to be board certified; and

(c) Procedures used to ensure that each contracted reviewer has the appropriate training and experience in the field of medicine involved in the medical judgment that is being reviewed.

(2) The procedures that it will use to ensure that a determination meets the following requirements:

(a) The determination is an adverse determination;

(b) The determination is a final determination; and

(c) The determination is based on medical necessity pursuant to section 20 of Assembly Bill 79 of the 72nd Session of the Nevada Legislature.

(3) The procedures that it will use to ensure that it makes its determination for an external review and an expedited external review in a timely manner pursuant to sections 22, 23 and 24 of Assembly Bill 79 of the 72nd Session of the Nevada Legislature; and

(4) The procedures that it will use to notify the parties of its determination, including the procedures that it will use to notify the parties of its determination of an expedited external review.

b. That the organization shall provide the following regarding conflicts of interests between the parties to the external review, pursuant to section 2 of Assembly Bill 79 of the 72nd Session of the Nevada Legislature, and it shall provide the following to the commissioner:

(1) An attestation and the procedures that it will use to ensure that its reviewers have no conflicts of interest with the parties to the review; and

(2) An attestation that the organization is not affiliated with:

(a) A health care plan; or

(b) A national, state or local trade association.

c. The applicant shall have a quality assurance plan to ensure that the organization is complying with requirements of sections 16 to 28, inclusive, of Assembly Bill 79 of the 72nd Session of the Nevada Legislature. A copy of that plan shall be provided to the commissioner.

2. If the organization has been accredited or certified by a national organization, the organization must submit an application prescribed by the commissioner and comply with the following:

a. The organization must provide the following:

(1) Proof that it has been accredited or certified by a national accrediting or certifying organizations;

(2) A copy of the accreditation standards; and

(3) A copy of the most current review that was completed by the accrediting or certifying organization.

b. An organization that is certified by commissioner to conduct external reviews in the state based on its accreditation or certification by a national organization shall:

(1) Immediately notify the commissioner if its national accreditation or certification organization suspends or revokes its accreditation or certification; and

(2) A copy of the findings of any review that is conducted by the national accreditation or certification organization.

3. Except as otherwise provided by subsection 4, the commissioner shall issue a certificate certifying an external review organization to an application who:

a. Submits an application on a form prescribed by the commissioner;

b. Has complied with the provision of section 1 or 2 of this regulation; and

c. Pays the fee of \$400 for the initial issuance of a certificate.

4. The commissioner may refuse to issue, suspend or revoke a certificate certifying an external review organization if the commissioner determines the applicant:

a. Has not complied with any provisions of this regulation;

b. Has had its license, certification, or registration denied for cause, suspended or revoked in this state or any other state;

c. Has misrepresented facts on its initial application or renewal application.

5. A certificate that is suspended or revoked must be surrendered immediately to the commissioner.

6. A certificate of an external review organization is valid for 1 year from the date the commissioner issues the certificate to the external review organization. Except as otherwise provided by subsection 4, an external review organization may renew a certificate if he submits to the commissioner:

a. A renewal application on a form prescribed by the commissioner; and

b. The fee of \$100 for the renewal of the certificate.