

**ADOPTED REGULATION OF THE  
COMMISSIONER OF INSURANCE**

**LCB File No. R131-03**

Effective October 30, 2003

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

AUTHORITY: §§1, 6 and 7, NRS 679B.130; §2, NRS 679B.130 and section 15 of Senate Bill No. 122 of the 72nd Session of the Nevada Legislature, chapter 178, Statutes of Nevada 2003, at page 923; §3, NRS 679B.130 and section 19 of Assembly Bill No. 320 of the 72nd Session of the Nevada Legislature, chapter 497, Statutes of Nevada 2003, at page 3360; §4, NRS 679B.130, section 14 of Senate Bill No. 122 of the 72nd Session of the Nevada Legislature, chapter 178, Statutes of Nevada 2003, at page 922 and section 22 of Assembly Bill No. 320 of the 72nd Session of the Nevada Legislature, chapter 497, Statutes of Nevada 2003, at page 3361; §5, NRS 679B.130, section 163 of Senate Bill No. 250 of the 72nd Session of the Nevada Legislature, chapter 508, Statutes of Nevada 2003, at page 3479 and section 12 of Senate Bill No. 122 of the 72nd Session of the Nevada Legislature, chapter 178, Statutes of Nevada 2003, at page 922.

**Section 1.** Chapter 690B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this regulation.

**Sec. 2.** *On or before September 1 of each year, an insurer offering professional liability insurance to a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS shall submit, on a form prescribed by the Commissioner, to the Commissioner the information required by the Commissioner pursuant to section 15 of Senate Bill No. 122 of the 72nd Session of the Nevada Legislature, chapter 178, Statutes of Nevada 2003, at page 923.*

**Sec. 3. 1.** *In accordance with section 19 of Assembly Bill No. 320 of the 72nd Session of the Nevada Legislature, chapter 497, Statutes of Nevada 2003, at page 3360, an insurer offering professional liability insurance to a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS shall file a notice with the Commissioner if:*

*(a) A settlement is reached concerning the liability of the practitioner for a breach of his professional duty that exceeds the limits of the coverage provided by the policy of insurance.*

*(b) A judgment is entered against the practitioner for a breach of his professional duty that exceeds the limits of the coverage provided by the policy of insurance.*

*2. The notice must be filed, on a form prescribed by the Commissioner, with the Commissioner within 45 days after:*

*(a) The date upon which a settlement is reached that requires a notice to be filed with the Commissioner pursuant to subsection 1.*

*(b) The date upon which a judgment is entered that requires a notice to be filed with the Commissioner pursuant to subsection 1.*

*Sec. 4. 1. Pursuant to section 14 of Senate Bill No. 122 of the 72nd Session of the Nevada Legislature, chapter 178, Statutes of Nevada 2003, at page 922 and section 22 of Assembly Bill No. 320 of the 72nd Session of the Nevada Legislature, chapter 497, Statutes of Nevada 2003, at page 3361, the Commissioner will determine whether any medical specialties in this state are essential as a matter of public policy.*

*2. A medical specialty will be deemed by the Commissioner to be essential as a matter of public policy if he determines that an unsafe condition exists because public access to a practitioner of the medical specialty is impaired as a result of insufficient availability of professional liability insurance to a practitioner of the medical specialty.*

*Sec. 5. An extended reporting endorsement offered pursuant to section 163 of Senate Bill No. 250 of the 72nd Session of the Nevada Legislature, chapter 508, Statutes of Nevada 2003, at page 3479, or section 12 of Senate Bill No. 122 of the 72nd Session of the Nevada*

*Legislature, chapter 178, Statutes of Nevada 2003, at page 922, must be made on a form approved by the Commissioner pursuant to NRS 687B.120.*

*Sec. 6. 1. In addition to the applicable disclosures required pursuant to sections 20, 21 and 22 of Assembly Bill No. 320 of the 72nd Session of the Nevada Legislature, chapter 497, Statutes of Nevada 2003, at page 3361 and sections 13 and 14 of Senate Bill No. 122 of the 72nd Session of the Nevada Legislature, chapter 178, Statutes of Nevada 2003, at page 922, an insurer offering professional liability insurance to a practitioner licensed pursuant to chapters 630 to 640 of NRS, inclusive, shall provide the disclosures regarding adverse underwriting decisions required pursuant to NAC 679B.715.*

*2. If an insurer offering professional liability insurance to a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS makes a decision to charge the practitioner a rate or premium charge that is higher than the applicable base rates filed with the Commissioner, the insurer shall provide to the practitioner the disclosures regarding adverse underwriting decisions required pursuant to NAC 679B.715.*

*Sec. 7. 1. If a practitioner licensed pursuant to chapters 630 to 640 of NRS, inclusive, experiences a change in exposure, each insurer issuing a policy of professional liability insurance to the practitioner shall disclose to the practitioner the effect of the change in exposure on the premium rate for the professional liability insurance and any extended reporting endorsement.*

*2. As used in this section, "change in exposure" means any change to the practice of a practitioner licensed pursuant to chapters 630 to 640 of NRS, inclusive, that would either increase or decrease the risk of the practitioner breaching his professional duty.*

**NOTICE OF ADOPTION OF PROPOSED REGULATION**  
**LCB File No. R131-03**

The Commissioner of Insurance adopted regulations assigned LCB File No. R131-03 which pertain to chapter 489 of the Nevada Administrative Code on \_\_\_\_\_.

**Notice date:**  
**Hearing date:**

**Date of adoption by agency:**  
**Filing date:**

**INFORMATIONAL STATEMENT**

A hearing was held on October 2, 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 – disclosure requirements; statistical reporting requirements; definition of essential medical specialties; and excess judgments or settlements.

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 17 individuals in Carson City and approximately 8 individuals in Las Vegas. No written comments were received.

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

Based upon the testimony received at the hearing, the proposed regulation is changed as follows:

1. Subsection 2 of section 6 is amended to read as follows:

A decision of an insurer offering professional liability insurance to a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS to charge the practitioner a rate or premium charge that is higher than the applicable base rates filed with the Commissioner is deemed to be an adverse underwriting decision subject to the provisions of NAC 679B.560 ~~to 679B.750, inclusive~~, *NAC 679B.565, NAC 679B.670, NAC 679B.715 and NAC 679B.750.*

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 will receive more complete explanations of rating rules applicable in the case of higher than manual premiums and will receive advance knowledge of the rating consequence of a change in their practice of medicine.
- (2) The regulation may have a beneficial impact on insurance companies and their agents as the explanations will improve consumer knowledge and relations with insureds.

(b) On the public:

- (1) The regulation may have a beneficial impact on the citizens of Nevada as the statistical information and information on settlements in excess of policy limits could improve claims settlement practices.

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.

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

**REGULATION FOR THE MEDICAL  
PROFESSIONAL LIABILITY INSURANCE  
DISCLOSURE REQUIREMENTS; STATISTICAL  
REPORTING REQUIREMENTS; DEFINITION  
OF ESSENTIAL MEDICAL SPECIALTIES; AND  
EXCESS JUDGMENTS OR SETTLEMENTS.**

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**SUMMARY OF PROCEEDINGS  
AND ORDER**

**SUMMARY OF PROCEEDINGS**

A public workshop, as required by NRS 233B.061, on the proposed regulation relating to medical professional liability insurance – disclosure requirements; statistical reporting requirements; definition of essential medical specialties; and excess judgments or settlements was held before Alice A. Molasky-Arman, Commissioner of Insurance, on October 2, 2003, in Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, Nevada. A public hearing on the proposed regulation was also held before Commissioner Molasky-Arman on October 2, 2003, in Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, Nevada. The regulation is proposed under the authority of NRS 679B.130.

The Department of Business and Industry, Division of Insurance (Division) did not receive any oral or written comments. The hearing was attended by 17 individuals in Carson City and approximately 8 individuals in Las Vegas. The following persons provided testimony before the Hearing Officer: Chuck Knaus, Cliff King and Janet Hess, representing the Division.

Chuck Knaus testified that the intent of the regulation was to define and establish the disclosure requirements for rates and premiums for medical professional liability insurance policies; clarify the statistical reporting requirements of insurers of medical professional liability insurance; define "essential medical specialties" and advise the requirements for the reporting of settlements or judgments in excess of policy limits. Mr. Knaus noted that the

scope of the regulation, as set forth in subsection 2 of section 6 of LCB File No. R131-03, was very broad. Discussion between Chuck Knaus, Cliff King and Janet Hess produced a recommendation for amendment and proposed wording has been adopted and included. All of these items are in accordance with Senate Bill 122 or Assembly Bill 320 of the 72<sup>nd</sup> Session of the Nevada Legislature.

Based upon the testimony received at the hearing, the proposed regulation is changed as follows:

1. Subsection 2 of section 6 is amended to read as follows:

A decision of an insurer offering professional liability insurance to a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS to charge the practitioner a rate or premium charge that is higher than the applicable base rates filed with the Commissioner is deemed to be an adverse underwriting decision subject to the provisions of NAC 679B.560 ~~to 679B.750, inclusive~~, *NAC 679B.565, NAC 679B.670, NAC 679B.715 and NAC 679B.750.*

### **ORDER OF THE COMMISSIONER**

Having reviewed the record in this matter, it is hereby ordered that the proposed regulation concerning medical professional liability insurance - disclosure requirements; statistical reporting requirements; definition of essential medical specialties; and excess judgments or settlements, LCB File No. R131-03, be adopted, as amended, as a permanent regulation of the Division.

SO ORDERED this \_\_\_\_\_ day of October, 2003.

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ALICE A. MOLASKY-ARMAN  
Commissioner of Insurance