

LCB File No. R246-03

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

**NOTICE OF WORKSHOPS TO SOLICIT COMMENTS ON
PROPOSED REGULATION**

The Department of Business and Industry, Division of Insurance (Division), is proposing new regulations pertaining to financial reporting and captive insurers; disclosure requirements for auto and homeowner's policies; employee leasing organization notification; uniform credentialing forms; and medicare supplement plans. A workshop has been set for 9:00 a.m., on March 23, 2004, 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. Captive Insurers' Financial Reporting.** The proposed regulation updates and amends the captive insurers chapter to clarify and correct the financial reporting requirements of the domestic captive insurers. The proposed regulation amends chapter 694C of the NAC.
- 2. Disclosures and Notices.** The proposed regulation will require automobile insurers to provide a disclosure on the policy when coverage is reduced or limited for permissive users of the insured vehicle(s). The proposed regulation will also amend Nevada Administrative Code (NAC) 690B.240 to require insurers issuing homeowner's insurance policies to provide notice to the insured explaining the insurer's rating plan when the plan provides for an increase in premium based upon incidents or claims.
- 3. Employee Leasing Organization Notification.** The proposed regulation adds a new section to chapter 687B of the NAC. The new section sets forth the provisions whereby a carrier or an HMO providing health insurance coverage to an employee leasing organization has to notify the client companies of the employee leasing organization upon termination of the health insurance coverage.
- 4. Uniform Credentialing Form.** The proposed regulation adds a new section to chapter 679B of the NAC. The new section sets forth the provisions whereby insurers, carriers, societies, corporations, health maintenance organizations and managed care organizations will use a uniform credentialing form related to the credentials of a provider of health care.
- 5. Medicare Supplement Plans.** The proposed regulation will amend chapter 687B of the NAC by expanding the Medicare Supplement guaranteed issue requirements for standardized Medicare Supplement plans to allow any pre-standardized policyholder to obtain a standardized policy; amends chapter 687B of the NAC to ensure that senior citizen insureds do not lose policy benefits due to an unintentional lapse in coverage by

allowing them to designate a third party to receive important notices; and amends NAC 687B.250, 687B.311 and 687B.319 by adding and deleting language to avoid future amendments to chapter 687B due to the annual changes in the Medicare Supplement deductible rates by using blanks in lieu of the dollar amounts. The reader is informed on how a change to plans F and J are calculated and directed to consult the most current version of the *Guide to Health Insurance for People with Medicare* for the most current deductible rates.

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

Douglas County Library

833 Las Vegas Blvd. North
Las Vegas, NV 89101

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

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
ATTN: Reference
P.O. Box 2151
Reno, NV 89505-2151

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, (775) 687-4270, extension 260.

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 March 23, 2004, 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:

REGULATIONS FOR FINANCIAL REPORTING AND CAPTIVE INSURERS

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

- 1. The proposed regulation is needed to address the financial reporting requirements for captive insurers.**
- The proposed regulation amends chapter 694C of the Nevada Administrative Code (NAC) by updating, clarifying and correcting the financial requirements for domestic captive insurers.
- Estimated economic effect of the regulation:
On the business, which is to be regulated: None
On the public: None
- The Division will not incur any costs.
- The Division is not aware of any overlap or duplication of the regulation with any state, local or federal regulation.
- The proposed regulation is not pursuant to federal law.
- There are no federal regulations regarding these activities.
- The proposed regulation does not require a new fee or increase of an existing fee.

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 March 16, 2004. 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.

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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
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Fourth & Cook Street
P.O. Box 430
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Winnemucca, NV 89445

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Lovelock, NV 89419

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ATTN: Reference
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LCB File No. R246-03

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

**PROPOSED REGULATION FOR FINANCIAL REPORTING AND
CAPTIVE INSURERS**

Explanation – Matter *italicized* is new, matter in brackets ~~is material to be omitted~~.

Authority: NRS 679B.130 and NRS 694C.170

Section 1. NAC 694C.090 is amended to read as follows:

The commissioner hereby adopts the following publications by reference:

1. The ~~Property/Casualty Insurance~~ *Annual Statement Blanks* and the *Annual Statement Instructions* ~~for the Property/Casualty Manual~~, published by the National Association of Insurance Commissioners. A copy of these publications may be purchased *at the current NAIC price* from NAIC-Publications, P.O. Box 87-7870, Kansas City, Missouri 64187-7870~~;~~ *online at www.naic.org*; or by telephone at (816) ~~374-7259~~ *783-8300*. ~~for \$125 and \$175, respectively.~~

2. The *AICPA Professional Standards*, published by the American Institute of Certified Public Accountants. A copy of this publication may be obtained *at the current AICPA price* from the American Institute of Certified Public Accountants, Order Department, P.O. Box 2209, Jersey City, New Jersey 07303-2209~~;~~ *online at www.cpa2biz.com*; or by telephone at (888) 777-7077 ~~for \$95 for members of the American Institute of Certified Public Accountants and \$119 for nonmembers.~~

3. *Original Pronouncements* and *Current Text*, published by the Financial Accounting Standards Board. A copy of:

(a) The *Original Pronouncements* may be obtained:

(1) For members of the American Institute of Certified Public Accountants, from the American Institute of Certified Public Accountants, Order Department, P.O. Box 2209, Jersey City, New Jersey 07303-2209, *online at www.cpa2biz.com*, or by telephone at (888) 777-7077, ~~for \$95~~ *at the current AICPA price*.

(2) For all others, from John Wiley and Sons, Inc., Distribution Center, 1 Wiley Drive, Somerset, New Jersey 08875-1272, *online at www.cpa2biz.com*, or by telephone at (800) 225-5945, ~~for \$44.95~~ *at the current publication price*.

(b) The *Current Text* may be obtained:

(1) For members of the American Institute of Certified Public Accountants, from the American Institute of Certified Public Accountants, Order Department, P.O. Box 2209, Jersey City, New Jersey 07303-2209, *online at www.cpa2biz.com*, or by telephone at (888) 777-7077, ~~for \$95~~ *at the current AICPA price*.

(2) For all others, from John Wiley and Sons, Inc., Distribution Center, 1 Wiley Drive, Somerset, New Jersey 08875-1272, *online at www.wiley.com*, or by telephone at (800) 225-5945, ~~for \$44.95~~ *at the current publication price*.

Sec. 2. NAC 694C.200 is amended to read as follows:

1. A report of financial condition filed by an association captive insurer, an agency captive insurer or a rental captive insurer pursuant to NRS 694C.400 must be verified by the oath of two executive officers of the captive insurer ~~and~~ *and include:*

(a) A complete set of financial statements including the Balance Sheet, Statement of Income, Statement of Cash Flows, Statement of Changes in Owners' Equity; and must be

~~2. A captive insurer shall file with the commissioner an audited statement of its financial condition. The audited statement must be:~~

~~(a) P] prepared in accordance with generally accepted accounting principles in the United States and stated in United States dollars, and must contain the footnotes [and opinions of the independent certified public accountant who prepared the statement]; and~~

~~(b) Accompanied by a statement, prepared by the independent certified public accountant who prepared the audited statement, certifying that all financial requirements established by law and the articles of incorporation, bylaws and the business plan of the captive insurer have been met.~~

~~3. In addition to any other statements and schedules which the captive insurer is required by law to file, the captive insurer shall submit to the commissioner t] (b) The following exhibits and schedules from the [Property/Casualty Insurance] applicable Annual Statements Blanks, published by the National Association of Insurance Commissioners, which [is] are adopted by~~

reference in NAC 694C.090:

- ~~[(a)]~~ (1) Exhibit 1 - Analysis of Nonadmitted Assets and Related Items;
- ~~[(b)]~~ (2) Schedule A - Real Estate;
- ~~[(c)]~~ (3) Schedule B - Mortgage Loans;
- ~~[(d)]~~ (4) Schedule BA - Other Long-Term Invested Assets;
- ~~[(e)]~~ (5) Schedule D - Bonds and Stocks;
- ~~[(f)]~~ (6) Schedule DA - Short-Term Investments; ~~[and]~~
- ~~[(g)]~~ (7) Schedule P - Parts 1 through 4 - Analysis of Losses and Loss Expenses~~[-]~~; *and*
- (8) Underwriting and Investment Exhibit, Part 2.*

The exhibits and schedules must be prepared in accordance with the *Annual Statement Instructions* ~~[for Property/Casualty Manual]~~, published by the National Association of Insurance Commissioners, which is adopted by reference in NAC 694C.090.

~~[-]~~2. A report of financial condition filed by a pure captive insurer pursuant to NRS 694C.400 must be verified by the oath of two executive officers of the pure captive insurer. The report must be on the form prescribed by the commissioner known as “Captive Annual Statement: Pure.”

3. Unless exempted by the commissioner, in addition to subsection 1, a domestic association captive formed pursuant to Chapter 695E of NRS related to Liability Risk Retention shall file with the commissioner, an annual statement that:

(a) Conforms to the format prescribed by the National Association of Insurance Commissioners in the Annual Statement Instructions and the Accounting Practices and Procedures Manual; and

(b) Contains exhibits and schedules that follow the specifications developed by the National Association of Insurance Commissioners.

Information from the insurer’s annual statement must be filed:

(a) Pursuant to the specifications adopted by the National Association of Insurance Commissioners for filing information in an electronic format;

(b) At the central office of the National Association of Insurance Commissioners, 2301 McGee Street, Suite 800, Kansas City, Missouri 64108-2604; and

(c) On or before March 1 of each year.

The form of the annual statement pursuant to NAC 694C.090 to be filed with the

commissioner must be the most current adopted by the National Association of Insurance Commissioners for the type of insurer reporting. Each insurer filing the form shall follow the instructions adopted by the National Association of Insurance Commissioners for the type of annual statement to be filed. These forms may be obtained from the National Association of Insurance Commissioners, Publications Department, 2301 McGee Street, Suite 800, Kansas City, Missouri 64108-2604 and are adopted by reference pursuant to NAC 694C.090.

4. Unless exempted by the commissioner, in addition to subsection 1, a domestic association captive formed pursuant to Chapter 695E of NRS related to Liability Risk Retention shall file with the commissioner, a quarterly statement that is:

(a) Filed on the most current form adopted by the National Association of Insurance Commissioners for the type of insurer reporting;

(b) Completed in accordance with the instructions accompanying that form; and

(c) Filed with the National Association of Insurance Commissioners in an electronic format.

Sec. 3. NAC 694C.210 is amended to read as follows:

1. A captive insurer shall have an annual audit by an independent certified public accountant who is authorized by the commissioner to conduct the audit. The captive insurer shall file the audited financial report with the commissioner on or before June ~~30~~¹ for the year ending on the immediately preceding December 31.

2. The commissioner will deem the annual audit conducted pursuant to this section to be a part of the annual report of financial condition of the captive insurer which is filed pursuant to NRS 694C.400.

3. The annual audit required by this section must include:

(a) The opinion of the independent certified public accountant who conducted the audit which states that the financial statements of the captive insurer were examined in accordance with generally accepted auditing standards, as determined by the American Institute of Certified Public Accountants and included in the publication *AICPA Professional Standards*, which is adopted by reference in NAC 694C.090. The opinion must:

(1) Cover all years presented in the audit;

(2) Be addressed to the captive insurer on stationery of the accountant; and

(3) Include the address of the accountant issuing the opinion, original manual signatures and the date on which the opinion was issued.

(b) A report of an evaluation of the internal controls of the captive insurer relating to:

(1) The methods and procedures used in the securing of assets; and

(2) The reliability of the financial records of the captive insurer, including, without limitation, the controls for the system of authorization and approval, and the separation of duties.

(c) A letter from the independent certified public accountant which includes:

(1) A statement that the accountant is independent with respect to the captive insurer and that he conforms to the standards of his profession as set forth in the *AICPA Professional Standards*, published by the American Institute of Certified Public Accountants, and adopted by reference in NAC 694C.090, and the pronouncements of the Financial Accounting Standards Board;

(2) A general description of the background and experience of the staff of the accountant engaged in the audit, including the experience of the staff in auditing captive insurers and other insurance companies;

(3) A statement that the accountant understands that the audited annual report and his opinions thereon will be filed with the commissioner pursuant to this section;

(4) A statement that the accountant will comply with NAC 694C.230 and that he consents and agrees to make his work papers available for review by the commissioner or his designee; and

(5) A statement that the accountant is properly licensed by the appropriate state licensing authority and that he is a member in good standing of the American Institute of Certified Public Accountants.

(d) Financial statements, including:

(1) A balance sheet;

(2) A statement of gain or loss from operations;

(3) A statement of changes in financial position;

(4) A statement of changes in paid-up capital, gross paid-in contributed surplus and unassigned money or assets; and

(5) Notes to financial statements required by generally accepted accounting principles, including:

(I) A reconciliation of differences, if any, between the audited financial report and the report filed with the commissioner pursuant to NRS 694C.400, if the captive insurer is reporting on a statutory accounting basis;

(II) A summary of ownership and relationships of the company and all affiliated corporations or companies insured by the captive insurer; and

(III) A narrative explanation of all material transactions and balances with the captive insurer.

(e) An annual actuarial certification of loss reserves and loss expense reserves which includes an opinion of the adequacy of the loss reserves and loss expense reserves of the captive insurer, in a format acceptable to the commissioner. The person who certifies the adequacy of the reserves must be approved by the commissioner and must be a Fellow of the Casualty Actuarial Society, a member in good standing of the American Academy of Actuaries or a person who has otherwise demonstrated his competence in the evaluation of loss reserves to the commissioner. The annual actuarial certification must be in such form as the commissioner determines appropriate.

Sec. 4. NAC 694C.230 is amended to read as follows:

1. A captive insurer shall ensure that its independent certified public accountant makes available for review by the commissioner or his designee the work papers of the accountant prepared in the conduct of the audit of the captive insurer. The captive insurer shall ensure that the accountant retains the audit work papers for not less than ~~5~~7 years after the ~~period reported upon in the audit~~ *date of the report by the accountant on the annual audited financial report or until the insurance division has completed its examination of the annual audited financial report, whichever occurs first* .

2. A review by the commissioner of the work papers of an independent certified public accountant is considered to be an examination of the captive insurer, and all work papers obtained during the course of such an examination are confidential. The captive insurer shall ensure that the independent certified public accountant provides to the division of insurance of the department of business and industry photocopies of any of the work papers which the division considers relevant. The division may retain any copies of work papers provided to it pursuant to this subsection.

Sec. 5. NAC 694C.280 is amended to read as follows:

1. Within 30 days after any change in the executive officers and directors of a captive insurer, the captive insurer shall report the change to the commissioner. The *information reported* must include a statement of the business and professional affiliations of the new executive officer or director *reported on the Biographical Affidavit Form that can be obtained from the Nevada Division of Insurance online at www.doi.state.nv.us or by phone at (775) 687-4270*. The new executive officer or director must meet the same standards that were indicated in the initial application of the captive insurer for that officer or director position.

2. A director, an officer or an employee of a captive insurer shall not, except on behalf of the captive insurer, accept or be the beneficiary of any fee, brokerage, gift or other emolument because of any investment, loan, deposit, purchase, sale, payment or exchange made by or for the captive insurer, but such a person may receive reasonable compensation for necessary services rendered to the captive insurer in his usual private, professional or business capacity.

3. Any profit or gain received by or on behalf of any person in violation of this section is recoverable by the captive insurer.