

**REVISED PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R053-12

September 11, 2013

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

AUTHORITY: §§1-7, NRS 616A.469 and 679B.130; §8, NRS 616A.469, 616C.363 and 679B.130; §§9-16, NRS 679B.130 and 683A.3715.

A REGULATION relating to insurance; amending provisions relating to the external reviews of adverse determinations of certain health carriers; increasing the fee for reapproval of an independent review organization to conduct external reviews of adverse determinations; and providing other matters properly relating thereto.

Section 1. NAC 616A.600 is hereby amended to read as follows:

616A.600 Except as otherwise provided in NAC 616A.610, an ~~external~~ *independent* review organization applying for the initial issuance of a certificate to conduct external reviews must submit to the Commissioner, on a form prescribed by the Commissioner, an application in writing and must provide to the Commissioner at the time of application:

1. A written statement that identifies:
 - (a) The number of external reviewers that the ~~external~~ *independent* review organization employs, contracts with or otherwise retains to conduct external reviews;
 - (b) The specialty of each external reviewer;
 - (c) Whether each external reviewer is certified by the entity that regulates his or her specialty; and
 - (d) The schedule of fees that the ~~external~~ *independent* review organization will charge to conduct an external review.

2. A written summary of the procedures that the ~~external~~ *independent* review organization will use to:

(a) Ensure that an external reviewer employed, contracted with or otherwise retained by the ~~external~~ *independent* review organization is qualified to conduct a specific external review;

(b) Ensure that the ~~external~~ *independent* review organization and any employee, agent or contractor of the ~~external~~ *independent* review organization does not have a conflict of interest as set forth in NRS 616A.469; and

(c) Submit a copy of the determination regarding an external review to each party to the external review.

3. A written affidavit that:

(a) The information contained in the application and any accompanying materials ~~are~~ *is* complete and correct;

(b) The ~~external~~ *independent* review organization will conduct external reviews in accordance with NRS 616A.469 and 616C.363;

(c) The ~~external~~ *independent* review organization and any employee, agent or contractor of the ~~external~~ *independent* review organization will avoid a conflict of interest as set forth in NRS 616A.469; and

(d) The ~~external~~ *independent* review organization is not affiliated with:

(1) An organization for managed care which provides comprehensive medical and health care services to employees for injuries or diseases pursuant to chapters 616A to 617, inclusive, of NRS;

(2) An insurer;

(3) A third-party administrator; or

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

4. All applicable fees required, including, without limitation, all applicable fees required pursuant to NAC 616A.640, for the initial issuance of a certificate to conduct external reviews.

Sec. 2. NAC 616A.610 is hereby amended to read as follows:

616A.610 If an ~~external~~ *independent* review organization has been certified or accredited as an ~~external~~ *independent* review organization by an accrediting body that is nationally recognized, ~~an external~~ *the independent* review organization applying for the initial issuance of a certificate to conduct external reviews must submit to the Commissioner, on a form prescribed by the Commissioner, an application in writing and must provide to the Commissioner at the time of application:

1. Proof that the ~~external~~ *independent* review organization has been certified or accredited as an ~~external~~ *independent* review organization by an accrediting body that is nationally recognized;
2. A copy of the certification or accreditation standards of the accrediting body;
3. A copy of the most recent review of the ~~external~~ *independent* review organization conducted by the accrediting body;
4. A copy of the schedule of fees that the ~~external~~ *independent* review organization will charge to conduct an external review; and
5. All applicable fees required, including, without limitation, all applicable fees required pursuant to NAC 616A.640, for the initial issuance of a certificate to conduct external reviews.

Sec. 3. NAC 616A.620 is hereby amended to read as follows:

616A.620 Except as otherwise provided in NAC 616A.650, if an ~~external~~ *independent* review organization applying for the initial issuance of a certificate to conduct external reviews

submits the application and accompanying materials required pursuant to NAC 616A.600 or 616A.610, the Commissioner will issue to the applicant a certificate to conduct external reviews.

Sec. 4. NAC 616A.630 is hereby amended to read as follows:

616A.630 1. In accordance with NRS 616A.469, a certificate to conduct external reviews expires 1 year after the date the certificate is issued by the Commissioner.

2. Except as otherwise provided in NAC 616A.650, the Commissioner will issue a renewal of a certificate to conduct external reviews if the ~~external~~ *independent* review organization submits to the Commissioner:

(a) On a form prescribed by the Commissioner, an application in writing for the renewal of the certificate to conduct external reviews;

(b) A copy of the schedule of fees that the ~~external~~ *independent* review organization will charge to conduct an external review; and

(c) All applicable fees required, including, without limitation, all applicable fees required pursuant to NAC 616A.640, for the renewal of a certificate to conduct external reviews.

Sec. 5. NAC 616A.640 is hereby amended to read as follows:

616A.640 The Commissioner will charge and collect:

1. Except as otherwise provided in subsection 2, from an ~~external~~ *independent* review organization submitting an application for the initial issuance of a certificate to conduct external reviews pursuant to NAC 616A.600 or 616A.610, a fee of \$400.

2. From an ~~external~~ *independent* review organization submitting an application for:

(a) The initial issuance of a certificate to conduct external reviews pursuant to NAC 616A.600 or 616A.610; and

(b) The initial issuance of a certificate to conduct external reviews pursuant to NRS ~~683A.371,~~ **683A.3715 and 683A.372** and the regulations adopted pursuant thereto,
↳ a fee of \$600.

3. From an ~~external~~ **independent** review organization submitting an application for the renewal of a certificate to conduct external reviews pursuant to NAC 616A.630, a fee of ~~100.~~ **200.**

4. From an ~~external~~ **independent** review organization, all applicable fees required pursuant to NRS 680C.110.

Sec. 6. NAC 616A.650 is hereby amended to read as follows:

616A.650 1. The Commissioner may refuse to issue or renew, or may suspend or revoke, a certificate to conduct external reviews if the Commissioner determines that an ~~external~~ **independent** review organization:

(a) Has violated the provisions of NRS 616A.469 or 616C.363, or NAC 616A.600 to 616A.670, inclusive;

(b) Has had a license, certificate or registration to operate as an ~~external~~ **independent** review organization denied for cause, suspended or revoked by any other state; or

(c) Has misrepresented facts on an application submitted to the Commissioner for the issuance or renewal of a certificate to conduct external reviews.

2. If the Commissioner refuses to renew, revokes or suspends a certificate to conduct external reviews, the ~~external~~ **independent** review organization shall surrender the certificate to the Commissioner.

Sec. 7. NAC 616A.660 is hereby amended to read as follows:

616A.660 An ~~external~~ *independent* review organization issued a certificate to conduct external reviews by the Commissioner pursuant to NAC 616A.610 shall:

1. Notify the Commissioner if the accrediting body revokes, suspends or otherwise terminates the certification or accreditation of the ~~external~~ *independent* review organization; and

2. Provide to the Commissioner a copy of the findings of any review of the ~~external~~ *independent* review organization conducted by the accrediting body.

Sec. 8. NAC 616A.670 is hereby amended to read as follows:

616A.670 The fees an ~~external~~ *independent* review organization issued a certificate to conduct external reviews may charge to conduct external reviews:

1. Must be reasonable;
2. Must not exceed the fees set forth in the schedule of fees submitted by the ~~external~~ *independent* review organization to the Commissioner pursuant to NAC 616A.600, 616A.610 or 616A.630; and
3. Must comply with all applicable statutes and regulations.

Sec. 9. NAC 683A.600 is hereby amended to read as follows:

683A.600 Except as otherwise provided in NAC 683A.610, an ~~external~~ *independent* review organization applying for ~~the~~ initial ~~issuance of a certificate~~ *approval* to conduct external reviews must submit to the Commissioner, on a form prescribed by the Commissioner, an application in writing and must provide to the Commissioner at the time of application:

1. A written statement that identifies:
 - (a) The number of external reviewers that the ~~external~~ *independent* review organization employs, contracts with or otherwise retains to conduct external reviews;

- (b) The specialty of each external reviewer;
 - (c) Whether each external reviewer is certified by the entity that regulates his or her specialty; and
 - (d) The schedule of fees that the ~~external~~ *independent* review organization will charge to conduct an external review.
2. A written summary of the procedures that the ~~external~~ *independent* review organization will use to:
- (a) Ensure that the ~~external~~ *independent* review organization conducts its activities in accordance with NRS 695G.241 to 695G.310, inclusive;
 - (b) Ensure that an external reviewer employed, contracted with or otherwise retained by the ~~external~~ *independent* review organization is qualified to conduct a specific external review;
 - (c) Ensure that a determination submitted for external review is a final adverse determination;
 - (d) Ensure that a final review is conducted in a timely manner in accordance with NRS 695G.251, 695G.261 and 695G.271;
 - (e) Ensure that the ~~external~~ *independent* review organization and any employee, agent or contractor of the ~~external~~ *independent* review organization does not have a conflict of interest as set forth in subsection 4 of NRS ~~683A.371;~~ *683A.372*; and
 - (f) Submit a copy of the determination regarding an external review to:
 - (1) The insured;
 - (2) The physician of the insured;
 - (3) The authorized representative of the insured, if any; and
 - (4) The managed care organization.
3. A written affidavit that:

- (a) The information contained in the application and any accompanying materials are complete and correct;
- (b) The ~~external~~ *independent* review organization will conduct external reviews in accordance with NRS 695G.241 to 695G.310, inclusive;
- (c) The ~~external~~ *independent* review organization and any employee, agent or contractor of the ~~external~~ *independent* review organization will avoid a conflict of interest as set forth in subsection 4 of NRS ~~683A.371;~~ *683A.372*; and
- (d) The ~~external~~ *independent* review organization ~~is not affiliated with;~~ *does not own or control, is not a subsidiary of or in any way controlled by, or exercises control with:*
- (1) A health ~~care~~ *benefit* plan; ~~or~~
 - (2) A national, state or local trade association ~~of health benefit plans; or~~
 - (3) *A national, state or local trade association of health care providers.*
4. All applicable fees required, including, without limitation, all applicable fees required pursuant to NAC 683A.640, for the issuance of a certificate to conduct external reviews.

Sec. 10. NAC 683A.610 is hereby amended to read as follows:

683A.610 If an ~~external~~ *independent* review organization has been certified or accredited as an ~~external~~ *independent* review organization by an accrediting body that is nationally recognized, ~~an external~~ *the independent* review organization applying for ~~the~~ initial ~~issuance of a certificate~~ *approval* to conduct external reviews must submit to the Commissioner, on a form prescribed by the Commissioner, an application in writing and must provide to the Commissioner at the time of application:

1. Proof that the ~~external~~ *independent* review organization has been certified or accredited as an ~~external~~ *independent* review organization by an accrediting body that is nationally recognized;
2. A copy of the certification or accreditation standards of the accrediting body;
3. A copy of the most recent review of the ~~external~~ *independent* review organization conducted by the accrediting body;
4. The schedule of fees that the ~~external~~ *independent* review organization will charge to conduct an external review; and
5. All applicable fees required, including, without limitation, all applicable fees required pursuant to NAC 683A.640, for the ~~issuance of a certificate~~ *initial approval* to conduct external reviews.

Sec. 11. NAC 683A.620 is hereby amended to read as follows:

683A.620 Except as otherwise provided in NAC 683A.650, if an ~~external~~ *independent* review organization applying for ~~the~~ initial ~~issuance of a certificate~~ *approval* to conduct external reviews submits the application and accompanying materials required pursuant to NAC 683A.600 or 683A.610, the Commissioner will ~~issue~~ *approve* the applicant ~~a certificate~~ to conduct external reviews.

Sec. 12. NAC 683A.630 is hereby amended to read as follows:

683A.630 1. In accordance with NRS ~~683A.371,~~ *683A.3715*, a certificate to conduct external reviews expires ~~1 year~~ *2 years* after the date *of* the ~~certificate is issued~~ *approval or reapproval* by the Commissioner.

2. Except as otherwise provided in NAC 683A.650, the Commissioner will issue a ~~renewal of a certificate to~~ *reapproval* conduct external reviews if the ~~external~~ *independent* review organization submits to the Commissioner:

(a) On a form prescribed by the Commissioner, an application in writing for ~~the renewal of the certificate~~ *reapproval* to conduct external reviews; and

(b) All applicable fees required, including, without limitation, all applicable fees required pursuant to NAC 683A.640, for ~~the renewal of a certificate~~ *reapproval* to conduct external reviews.

Sec. 13. NAC 683A.640 is hereby amended to read as follows:

683A.640 The Commissioner will charge and collect:

1. Except as otherwise provided in subsection 2, from an ~~external~~ *independent* review organization submitting an application for ~~the~~ initial ~~issuance of a certificate~~ *approval* to conduct external reviews pursuant to NAC 683A.600 or 683A.610, a fee of \$400.

2. From an ~~external~~ *independent* review organization submitting an application for:

(a) ~~The initial issuance of a certificate~~ *Initial approval* to conduct external reviews pursuant to NAC 683A.600 or 683A.610; and

(b) The initial issuance of a certificate to conduct external reviews pursuant to NRS 616A.469 and 616C.363, and the regulations adopted pursuant thereto,
↳ a fee of \$600.

3. From an ~~external~~ *independent* review organization submitting an application for ~~the renewal of a certificate~~ *reapproval* to conduct external reviews pursuant to NAC 683A.630, a fee of ~~[\$100.]~~ *\$200.*

4. From an ~~external~~ *independent* review organization, all applicable fees required pursuant to NRS 680C.110.

Sec. 14. NAC 683A.650 is hereby amended to read as follows:

683A.650 1. The Commissioner may refuse to ~~issue or renew,~~ *approve or reapprove an independent review organization* or may suspend or revoke ~~;~~ ~~a certificate~~ *an approval or reapproval* to conduct external reviews if the Commissioner determines that ~~an external~~ *the independent* review organization:

(a) Has violated the provisions of NRS 695G.241 to 695G.310, inclusive, or NAC 683A.600 to 683A.670, inclusive;

(b) Has had a license, certificate or registration to operate as an ~~external~~ *independent* review organization denied for cause, suspended or revoked by any other state; or

(c) Has misrepresented facts on an application submitted to the Commissioner for the ~~issuance~~ *approval* or ~~renewal of a certificate~~ *reapproval* to conduct external reviews.

2. If the Commissioner refuses to ~~renew,~~ *reapprove an independent review organization* or revokes or suspends ~~a certificate~~ *approval or reapproval* to conduct external reviews, the ~~external~~ *independent* review organization shall surrender the certificate *of approval or reapproval* to the Commissioner.

Sec. 15. NAC 683A.660 is hereby amended to read as follows:

683A.660 An ~~external~~ *independent* review organization ~~issued a certificate~~ *approved or reapproved* to conduct external reviews by the Commissioner pursuant to NAC 683A.610 shall:

1. Notify the Commissioner if the accrediting body revokes, suspends or otherwise terminates the certification or accreditation of the ~~external~~ *independent* review organization; and

2. Provide a copy of the findings of any review of the ~~external~~ *independent* review organization conducted by the accrediting body.

Sec. 16. NAC 683A.670 is hereby amended to read as follows:

683A.670 The fees an ~~external~~ *independent* review organization ~~issued a certificate~~ *approved or reapproved by the Commissioner* to conduct external reviews may charge to conduct external reviews must be reasonable.