

**PROPOSED REGULATION OF
THE STATE CONTROLLER**

LCB File No. R060-14

**PURSUANT TO NRS 353C.1965
REGARDING PROFESSIONAL OR OCCUPATIONAL LICENSEE WHO
OWES A DEBT THAT HAS BEEN ASSIGNED TO THE STATE
CONTROLLER FOR COLLECTION**

Section 1. Chapter 353C of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 29, inclusive, of this regulation.

DEFINITIONS

Sec. 2. *“Hearing” means a hearing before the State Controller or his or her designee pursuant to NRS 353C.1965 concerning a licensee that owes a debt to an agency that has been assigned to the State Controller for collection pursuant to NRS 353C.195.*

Sec. 3. *“License” has the meaning ascribed to it in NRS 353C.1965.*

Sec. 4. *“Licensee” has the meaning ascribed to it in NRS 353C.1965.*

Sec. 5. *“Licensing agency” has the meaning ascribed to it in NRS 353C.1965.*

Sec. 6. *“Petitioner” means a licensee who requests a hearing.*

Sec. 7. *“Respondent” means the agency that assigned the debt owed by the licensee to the State Controller for collection pursuant to NRS 353C.195.*

PROCEUDRES TO PROVIDE NOTICE AND SUBMIT INFORMATION

Sec. 8. *A licensing agency that provides the information to the State Controller pursuant to subsection 2 of NRS 353C.1965 shall submit the information electronically using:*

- 1. The format prescribed by the State Controller; and*
- 2. The secure transmission protocol established by the State Controller.*

Sec. 9. *All notices required to be sent to:*

1. A licensee pursuant to subsection 4 of NRS 353C.1965 or section 11 of these regulations must be sent by certified mail to the last known address of the licensee.

2. A licensing agency pursuant to subsection 5 of NRS 353C.1965 or section 12 of these regulations must be sent electronically to the electronic mail address of the licensing agency or representative of the licensing agency. A licensing agency shall provide to the State Controller a current electronic mail address for receipt of correspondence.

Sec. 10. *If a licensee responds to the notice sent pursuant to subsection 4 of NRS 353C.1965 and pays the debt in full or complies with an agreement to pay the debt on an installment basis pursuant to NRS 353C.130, the State Controller:*

1. Will accept payment of the debt in full or on a payment plan and distribute the money collected in accordance with NRS 353C.224.

2. Close the debt account of the licensee after the debt is satisfied.

↳ The State Controller is not required to notify the licensing agency if the licensee complies with the notice sent pursuant to subsection 4 of NRS 353C.1965.

Sec. 11. *If a licensee fails to respond to the notice within 30 days after the date the notice was sent pursuant to subsection 4 of NRS 353C.1965, the State Controller shall:*

1. Determine the debt is valid;

2. Send notice of that determination to the licensee; and

3. Send notice to the licensing agency that regulates the licensee pursuant to subsection 5 of NRS 353C.1965.

Sec. 12. *1. If a licensing agency receives notice from the State Controller pursuant to subsection 5 of NRS 353C.1965, the licensing agency shall not renew the license of the licensee who is the subject of the notice in accordance with the established administrative procedures of the licensing agency for denying a license renewal.*

2. A licensing agency is not required to take action to deny the license of the licensee if the license is expired, suspended, revoked or otherwise inactive when the licensing agency receives notice. Before a licensing agency reinstates a license that was expired, suspended, revoked or otherwise inactive, it must verify with the State Controller that the debt has been satisfied. If the debt has not been satisfied, the licensing agency shall not reinstate the license.

3. Any time after the license renewal is denied, the licensee may contact the State Controller to pay the debt in full or on an installment basis pursuant to NRS 353C.130.

4. If the licensee pays the debt in full or complies with an agreement to pay the debt on an installment basis, the State Controller will notify the licensing agency.

5. Upon receipt of the notice sent pursuant to subsection 4, the licensing agency may consider a renewal application from the licensee in accordance with the established administrative procedures of the licensing agency.

HEARING PROCEDURES

Sec. 13. *1. The procedures set forth herein:*

(a) Govern the practice and procedure in a hearing.

(b) Will be liberally construed to secure the just, speedy and economical determination of all issues presented in a hearing.

2. The State Controller may permit deviation from the procedures set forth herein in specific cases if:

(a) Good cause appears for the deviation;

(b) The deviation is not contrary to a specific statute; and

(c) The deviation is stipulated to by all parties of record.

Sec. 14. 1. *The purpose of a hearing is to determine the validity and amount of the debt owed to an agency.*

2. If the existence and amount of the debt is established by a judgment or administrative decision in accordance with the judicial or administrative proceedings prescribed by the agency to which the debt is owed and all right to appeal has been exhausted, the debt is deemed valid for purposes of NRS 353C.1965 and these regulations and the scope of the hearing is limited to a determination of the balance due on the debt. Right to appeal includes, but is not limited to, reconsideration, redetermination, rehearing, petition for judicial review, or appeal. Documentation related to any judicial or administrative proceedings concerning the debt should be submitted as evidence of the existence and amount of the debt at the hearing.

3. For all other debts, the scope of the hearing is limited to a review of the documentation establishing the existence and amount of the debt, any payments received by the agency, and any evidence contesting the validity of the debt.

4. NRS 353C.1965 and these regulations do not confer on a licensee any right to administratively contest the existence or amount of a debt that is in addition to the right conferred on the licensee by the administrative procedures prescribed by the agency to which the debt is owed.

Sec. 15. *A request for a hearing must be in writing and addressed to the State Controller. The hearing request must be sent not later than 30 days after the date on which the notice was sent pursuant to subsection 4 of NRS 353C.1965.*

Sec. 16. 1. *Before scheduling a hearing, the State Controller may schedule a prehearing conference and direct each party to meet with the State Controller to discuss the possibility of resolving the issues.*

2. The prehearing conference may be held telephonically.

3. At least 3 days before the date of the prehearing conference, the petitioner and the respondent shall each submit to the State Controller a concise statement outlining the issues to be presented.

4. The purpose of the prehearing conference is to resolve the entire matter or as many issues as possible with a view to simplifying the issues and achieving a just, speedy, and economical determination of the matter.

5. If the entire matter is resolved in the prehearing conference, the State Controller is not required to schedule a hearing.

Sec. 17. 1. *Except as otherwise provided in subsection 3, notice of the place, date and hour of a hearing will be served at least 15 days before the date set for the hearing.*

2. A hearing will be held at the Office of the State Controller in Carson City, Nevada, or at such other place in this State as may be designated in the notice of hearing.

3. A hearing date may be set with less than 15 days' notice if the petitioner and the respondent agree in writing.

Sec. 18. *The petitioner and the respondent shall each submit a prehearing statement to the State Controller at least 5 days before the date of a hearing. The prehearing statement must*

include a statement of the issues to be presented and a list of witnesses and evidence to be presented at the hearing.

Sec. 19. *All pleadings and documents must be addressed to the State Controller. All pleadings are deemed to be officially received by the State Controller when a true copy of the paper or document, properly addressed and stamped, is deposited in the United States mail.*

Sec. 20. *Oral evidence will be taken only upon oath or affirmation administered by the State Controller. Before testifying, a person must swear or affirm that the testimony the person is about to give will be the truth, the whole truth and nothing but the truth.*

Sec. 21. *If the petitioner wishes to have a transcript of the hearing, he or she must furnish the reporter, pay for the transcript and deliver a copy of the transcript to the State Controller within 20 days after requesting a rehearing or filing a petition for judicial review of the matter pursuant to chapter 233B of NRS.*

Sec. 22. *A person appearing in a prehearing conference or hearing shall conform to the recognized standards of ethical and courteous conduct.*

Sec. 23. *At a hearing, the petitioner and respondent may:*

- 1. Call and examine witnesses.*
- 2. Introduce relevant exhibits and evidence identified in their respective prehearing statements submitted pursuant to these procedures, subject to objection by the opposing party.*
- 3. Cross-examine opposing witnesses on any relevant matter, even if that matter was not covered in the direct examination.*
- 4. Impeach any witness regardless of which party first called the witness to testify.*
- 5. Offer rebuttal evidence.*
- 6. Call any person who, because of the person's relationship to any other party, may be an adverse witness and examine the person as an adverse witness.*

Sec. 24. *1. A party may appear at a prehearing conference or hearing:*

- (a) In person;*
 - (b) By an attorney, accountant or other authorized representative; or*
 - (c) As provided in subsection 2.*
- 2. If a party is not a natural person, the party may appear at a hearing:*
- (a) If a partnership, by a partner.*
 - (b) If a corporation, by an officer or a regular employee.*
 - (c) If a municipal corporation, by an officer, agent or employee.*
 - (d) If an unincorporated association, by an officer or employee.*
- 3. An attorney who is not a member of the State Bar of Nevada may represent a party at a hearing if the attorney is otherwise authorized to practice law in this State pursuant to the rules of the Supreme Court.*

Sec. 25. *The State Controller or his or her designee retains discretion:*

- 1. To grant continuances or recesses, both before and during a hearing; and*

2. If a party fails to appear at the time and place set for a hearing, to dismiss the proceeding with or without prejudice or to recess the hearing for a specified period to enable the party to attend.

Sec. 26. *1. In a hearing, the respondent has the burden to establish the existence and amount of the debt and the petitioner has the burden to contest the existence and amount of the debt.*

2. Unless otherwise ordered by the State Controller in a specific case, evidence will be received in the following manner:

- (a) Brief opening statements by the respondent and the petitioner;*
- (b) Presentation of evidence by the respondent; and*
- (c) Presentation of evidence by the petitioner.*

Sec. 27. *1. A hearing will not be conducted according to the technical rules of evidence, but pursuant to the provisions of NRS 233B.123.*

2. The State Controller, upon the application of a party, may issue subpoenas.

Sec. 28. *The State Controller may take official notice of the following matters:*

1. Rules, regulations, official reports, decisions and orders of the State Controller and any regulatory agency of this State.

2. Matters of common knowledge and technical or scientific facts of established character.

3. An official document properly introduced into the record of a hearing, if:

- (a) The document is pertinent; and*
- (b) Proper and definite reference to the document is made by the party offering it.*

4. Matters which may be judicially noticed by the courts of this State.

Sec. 29. *1. After the conclusion of the evidentiary portion of a hearing or after the entire matter is resolved in the prehearing conference, the State Controller will, within 30 days, prepare findings of fact, conclusions of law and a final decision on the issues presented in the hearing or in the prehearing conference.*

2. The State Controller will serve a copy of the findings of fact, conclusions of law and decision upon all parties of record.

3. Upon completion of service pursuant to subsection 2, the State Controller will:

(a) Accept from the licensee payment of the debt in full or on a payment plan and distribute the money collected in accordance with NRS 353C.224;

(b) Send written notice to the licensing agency pursuant to subsection 5 of NRS 353C.1965 if the debt is determined to be valid and the licensee refuses to pay the debt; or

(c) Remove the licensee from the list of debtors established pursuant to subsection 1 of NRS 353C.1965 if it is determined that the debt is not valid.