

LCB File No. R131-98

NOTICE OF WORKSHOPS TO SOLICIT COMMENTS ON PROPOSED REGULATIONS

September 2, 1998

The Department of Business and Industry, Division of Insurance (Division) is proposing the amendment of regulations pertaining to chapters 616B, 687B, 695F, and 697 of the Nevada Administrative Code. A workshop has been set for 10:00 a.m., on September 24, 1998, at the offices of the Division, 1665 Hot Springs Road, Suite 152, Carson City, Nevada. The purpose of the workshop is to solicit comments from interested persons on the following general topics addressed in the proposed regulations.

- 1. Amendments to chapter 616B of NAC. The proposed regulation:**
 - (a) Prescribes the basic policy of insurance to be used by private carriers for workers' compensation insurance; and**
 - (b) Provides for the qualification of groups for workers' compensation insurance.**
- 2. Amendments to chapter 687B of NAC. The proposed regulation amends the provisions relating to Medicare Supplement insurance and recognizes the federal changes concerning the Medicare+ Choice program.**
- 3. Amendments to chapter 695F of NAC. The proposed regulation provides for the licensure of Provider-Sponsored Organizations.**
- 4. Amendments to chapter 697 of NAC. The proposed regulation prohibits the advertisement or solicitation of bail in or about a court, prison, jail, or detention facility.**

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 regulation to be amended will be available at the offices of the Division, 1665 Hot Springs Road, Suite 152, Carson City, Nevada 89706, 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.

This Notice of Workshop to Solicit Comments on Proposed Regulation has been sent 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
1665 Hot Springs Road, Suite 152
Carson City, NV 89706

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

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
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 1665 Hot Springs Road, Suite 152, Carson City, Nevada 89706, or by calling no later than 5 working days prior to the hearing, (702) 687-4270.

DATED this _____ day of _____, 19_____.

ALICE A. MOLASKY-ARMAN
Commissioner of Insurance

LCB File No. R131-98

NOTICE OF INTENT TO ACT UPON REGULATIONS

Notice of Hearing for the Amendment 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 10:00 a.m., on October 7, 1998, at the offices of the Division, 1665 Hot Springs Road, Suite 152, Carson City, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of regulations pertaining to chapter 695F of the Nevada Administrative Code.

REGULATIONS FOR THE OPERATION OF PROVIDER SPONSORED ORGANIZATIONS (PSOs)

The following information is provided pursuant to the requirements of NRS 233B.060:

1. The proposed regulation is needed to respond to the new federal standards which allow the operation of provider sponsored organizations in certain circumstances.
2. The regulation establishes the requirements necessary for a provider sponsored organization to obtain a certificate of authority to operate in Nevada.
3. Estimated economic effect of the regulation:
On the business which it is to regulate:
The regulation should have little impact on the industry.

On the public:
The regulation should have no economic impact on the public.
4. The Division may incur significant additional expense to enforce the proposed regulation. The expense cannot be estimated as the level of activity for provider sponsored organizations is unknown at this time.
5. Part of the regulation duplicates sections 1851 to 1859 of the Social Security Act, 42 U.S.C. par. 1395w-21. This duplication is necessary to coordinate the Division's regulatory oversight of provider sponsored organizations with the Health Care Financing Administration.
6. The proposed regulation is not more stringent than the federal regulations.
7. The proposed regulation does not establish a new fee or increase 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, 1665 Hot Springs Road, Suite 152, Carson City, Nevada 89706. Written submissions must be received by the Division on or before October 1, 1998. 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 regulation to be amended will be available at the offices of the Division, 1665 Hot Springs Road, Suite 152, Carson City, Nevada 89706, 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
1665 Hot Springs Road, Suite 152
Carson City, NV 89706

Department of Business and Industry
Division of Insurance
2501 East Sahara Avenue, Suite 302
Las Vegas, NV 89104

Legislative Counsel Bureau
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20 Nevin Way
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First & A Street
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DATED this _____ day of September, 1998.

ALICE A. MOLASKY-ARMAN
Commissioner of Insurance

LCB File No. R131-98

PROPOSED REGULATION OF THE DIVISION OF INSURANCE

STATE OF NEVADA

DEPARTMENT OF BUSINESS AND INDUSTRY

DIVISION OF INSURANCE

REGULATION CONCERNING PROVIDER SPONSORED ORGANIZATIONS

Authority: NRS 679B.130, NRS 695F.300

Section 1. Chapter 695F of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive of this regulation.

Sec. 2. “Provider Sponsored Organization” means a public or private entity that:

1. Is established or organized, and operated by, a health care provider or group of affiliated health care providers;

2. Is organized and licensed pursuant to chapter 695F of NRS as a risk bearing entity authorized to offer health insurance or health benefits coverage in this state; and

3. Conducts only Medicare+Choice business.

Sec. 3. “Health Care Provider” means:

1. An individual who directly furnishes health care services in the state and who is licensed or certified by this state to engage in the delivery of such services; or

2. An entity that is organized and operated primarily for the purpose of furnishing health care services directly or through its provider members or entities and is licensed or certified to engage in the delivery of such services in the state.

Sec. 4. “Affiliated Provider” means a provider that is affiliated with another provider through contract, ownership or otherwise, if:

1. One provider, directly or indirectly, is controlled by, or under common control with the other. Control is presumed to exist for the purposes of this criterion if one party, directly or indirectly, owns, or holds the power to vote, or holds proxies for, not less than 51 percent of the voting rights or governance rights of another;

2. Each provider is a participant in a lawful combination under which each provider shares substantial financial risk. For the purposes of this criterion, lawful combination shall be interpreted as meeting antitrust and other Federal guidelines, as well as applicable Federal and State statutes;

3. Each provider is part of a controlled group of corporations under section 1563 of the Internal Revenue Code (IRC) of 1986; or

4. Each provider is part of an affiliated service group under section 414 of the IRC.

Sec. 5. A provider sponsored organization may enter into a contract with the Health and Human Services to provide benefits for health care to Medicare beneficiaries under Part C of the Medicare Program, sections 1851 to 1859, inclusive, of the Social Security Act, also known as the Medicare + Choice program.

Sec. 6. 1. The provider sponsored organization must:

(a) Provide a substantial portion of the health care items and services under its Medicare + Choice contract directly through the provider or affiliated group of providers. For the purposes of this criterion, “substantial portion” shall mean not less than 70 percent of

Medicare items and services covered under a PSO contract for non-rural providers and 60 percent for rural providers; and

(b) Have a minimum enrollment of 1,500 if primarily servicing an urban area and 600 if primarily servicing a rural area.

2. The minimum enrollment in subsection 1 of this section may be waived or reduced by the commissioner during the first three years of operation.

Sec. 7. 1. Affiliated providers must share, directly or indirectly, substantial financial risk for the provisions of items and services under a Medicare + Choice contract.

2. To be considered at substantial financial risk, the affiliated providers must demonstrate that:

(a) A capitation agreement is in place where the affiliated providers share significant risk for the PSO enterprise;

(b) The affiliated providers share risk in the PSO enterprise through other risk-sharing mechanisms such as agreement by an affiliated provider to provide services for a predetermined percent of the PSO's premium or revenue, or certain financial incentives considered to be significant, e.g. withholds and pre-established, fixed budgets or utilization targets for the affiliated provider; or

(c) Other financial commitments are in place that could be submitted for consideration by the commissioner, such as significant ownership of the affiliated provider in a for-profit PSO, significant investments from an affiliated provider, or a guarantee by an affiliated provider to cover the debt or operating expenses of the PSO.

Sec. 8. A provider service organization may provide services pursuant to a Medicare + Choice program to rural areas if:

1. It can demonstrate that it can render, through affiliated providers located in the rural area, medical services commonly provided to beneficiaries by providers in the rural community; and

2. It has a majority of its enrollees residing within the rural area or areas to be serviced by the PSO.

Sec. 9. NAC 695F.210 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, each organization shall obtain a contract of insurance for the cost of providing limited health services which exceed in the aggregate, for an organization that has a free surplus of:

(a) Not more than \$1,000,000, \$30,000 per enrollee per year or a lesser amount, if any, as deemed appropriate by the commissioner.

(b) More than \$1,000,000 but not more than \$2,000,000, \$50,000 per enrollee per year or a lesser amount, if any, as deemed appropriate by the commissioner.

(c) More than \$2,000,000, \$100,000 per enrollee per year or a lesser amount, if any, as deemed appropriate by the commissioner.

2. The commissioner may authorize an organization to obtain a contract of insurance for the cost of providing limited health services which exceed in the aggregate per enrollee an amount which is less than the amount required pursuant to subsection 1 if the maximum benefit payable per enrollee is less than the amount required pursuant to subsection 1.

3. The contract of insurance may have an aggregate limit of \$5,000,000 or a lesser amount as deemed appropriate by the commissioner. Subject to that limit, the contract must:

(a) Include a provision that, in case of the insolvency of the organization, the insurer will pay all claims made by an enrollee for the period for which a premium has been paid to the organization.

(b) Specifically provide for:

(1) The continuation of benefits to enrollees for the period for which the subscribers have made prepayments to the organization;

(2) The continuation of benefits for enrollees confined in a medical facility or facility for the dependent at the time of the insolvency of the organization until the enrollee is discharged from the facility; and

(3) The payment of a provider who is not affiliated with the organization and who provided medically necessary services, as described in the evidence of coverage, to an enrollee for the time the subscriber made payments to the organization.

4. A contract of insurance obtained by an organization pursuant to this section may not be canceled unless the organization and insurer provide the commissioner with 90 days' prior written notice of the cancellation.