

LCB File No. R194-99

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

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

October 22, 1999

The Department of Business and Industry, Division of Insurance (Division) is proposing new regulations pertaining to captive insurance companies, health insurance for small employers and eligible persons, health maintenance organizations, and service contracts. A workshop has been set for 10:00 a.m., on December 1, 1999, 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. Captive Insurance Companies. The proposed regulation establishes requirements for the filing of an annual report, the minimum standards for an annual audit, requirements for deposits, and standards for reinsurance. The regulation also prescribes the application form and the letter of credit.**
- 2. Health Insurance for Small Employers and Eligible Persons. The proposed regulations limit the use of medical questionnaires, requires the use of disclosure forms, and prohibits tied insurance sales.**
- 3. Health Maintenance Organizations. The proposed regulations allow fee for service arrangements with providers, amends provisions regarding reserves for premium taxes, and payment on statutory bonds.**
- 4. Service Contracts. The proposed regulations establish the fees and documents that must be filed, requirements for claims, and the processing of terminated contracts.**
- 5. Workers' Compensation. The proposed regulation repeals the requirement for a declination from the State Industrial Insurance System before accessing the residual market, and allows the advisory organization to file special programs under the residual market to meet market needs.**

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, 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

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 <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 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
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 _____, 1999.

ALICE A. MOLASKY-ARMAN
Commissioner of Insurance

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 10:00 a.m., on December 1, 1999, immediately following a public workshop, 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 adoption of regulations pertaining to health maintenance organizations.

REGULATIONS CONCERNING HEALTH MAINTENANCE ORGANIZATIONS

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

1. The proposed regulations are needed to address problems involving health maintenance organizations and to amend outdated language in the regulations.
2. The proposed regulation allows health maintenance organizations to contract with providers in a manner other than capitation, amends the provisions regarding reserves for premium tax, and establishes the manner of payment on statutory bonds.
3. Estimated economic effect of the regulation:
On the business which it is to regulate:
The proposed regulation should have neither an immediate nor long-term impact of any significance on the industry.
On the public:
The proposed regulations should have no economic impact on the public.
4. The Division should not incur any additional expense to enforce the proposed regulations.
5. The Division is not aware of any overlap or duplication of the regulation with any state, local or federal regulation.
6. The proposed regulation does not establish any new fees 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 November 29, 1999. 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.

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Department of Business and Industry
Division of Insurance
1665 Hot Springs Road, Suite 152
Carson City, NV 89706

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Winnemucca, NV 89445

Battle Mountain Branch Library
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93 Main Street
P.O. Box 330
Pioche, NV 89043

Lyon County Library
20 Nevin Way
Yerington, NV 89447

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First & A Street
P.O. Box 1390
Hawthorne, NV 89415

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171 Central Street
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1125 Central Avenue
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Lovelock, NV 89419

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Virginia City, NV 89440

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DATED this _____ day of _____, 19_____.

ALICE A. MOLASKY-ARMAN
Commissioner of Insurance

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

REGULATION CONCERNING HEALTH MAINTENANCE ORGANIZATIONS

Authority: NRS 679B.130 and NRS 695C.130 (2)

Section 1. NAC 695C.120 is hereby amended to read as follows:

An application for a certificate of authority must be accompanied by all forms specifically required by chapter 695C of NRS and provided by the division and by:

1. All documents describing the financing and ownership of the organization, including financial statements and copies of any contracts made or to be made between any member of the governing board or committee, the officers of the corporation or partners of a partnership or association, or providers, and the proposed organization. The financial statements must depict a net worth of not less than \$1,500,000. All financial statements must be certified by an independent certified public accountant.

2. A surety bond or deposit of cash or securities for the protection of the enrollees *and legal obligations of the health maintenance organization* in the amount of \$250,000 or more which is deposited with the commissioner. The bond must include a provision preventing cancellation except after written notice to the commissioner of not less than 90 days. An organization which has made a deposit of securities pursuant to this subsection may withdraw them if it makes an equivalent deposit of cash, securities or a combination of cash and securities acceptable to the commissioner.

3. A blanket fidelity bond in an amount of not less than \$1,000,000 in the aggregate to cover every director, officer, partner and employee of the organization who may receive, collect, disburse or invest funds in connection with the activities of the organization.

4. A proposed plan of operation for the first 3 years of operation based on projected total income and projected total expenses. The amounts stated for the cost of medical services and the use of them in the proposed plan must be certified by a qualified actuary. The plan must project income and expected costs allocated to:

(a) Coverage for emergencies or medically necessary services rendered outside of the organization's specified geographic area of service;

(b) Per capita payments to primary physicians;

(c) Fees to other providers of health care;

(d) Supplemental benefits;

(e) A contract of stop loss insurance;

(f) Expenses of administration; and

(g) Amortization of necessary costs for the establishment of the organization.

Sec. 2. NAC 695C.137 is hereby amended to read as follows:

1. Each *health maintenance* organization shall retain as reserves an amount ~~£:~~

~~—(a) Equal to the premium taxes owed pursuant to chapter 680B of NRS; and~~

~~—(b) After the first year of operation, as a protection against insolvency, equal to twice its actual average monthly uncovered expenditures for the previous year of operation or \$500,000, whichever is greater.~~

2. ~~[Payments for premium taxes may be made from the account maintained for reserves.]~~

~~—3. Except as otherwise provided in subsection 2, no~~ *No health maintenance* organization may reduce the reserves for protection against insolvency unless it notifies the commissioner in writing and receives his written approval of the reduction. Any unauthorized reduction in this reserve creates a presumption that the *health maintenance* organization is in an unsound financial condition.

~~[4.]~~ 3. All reserves maintained by ~~[an]~~ *a health maintenance* organization pursuant to this section:

(a) Must be deposited in a trust account in a ~~[federally insured financial institution located in Nevada]~~ *bank chartered by this state or a bank that is a member of the United States Federal Reserve System and has been approved by the commissioner*. All income earned by the account belongs to the *health maintenance* organization and may be credited and paid to the *health maintenance* organization and used for its operations.

(b) Are in addition to those reserves established by the *health maintenance* organization according to good business and accounting practices for incurred but not reported claims and other similar claims.

Sec. 3. NAC 695C.195 is hereby amended to read as follows:

1. Each agreement between a primary physician or delivery system intermediary and an organization ~~[must]~~ *may* provide for per capita payments which must be:

(a) Paid in advance without regard to the time services are rendered or the extent of those services; and

(b) Based upon an actuarial computation of the expected cost of those services.

2. The per capita payment:

(a) May be reduced by the amount withheld pursuant to the agreement between the provider and organization as an incentive for the effective use of health care services.

(b) May not reflect any payment made by an enrollee to a physician in accordance with the schedule filed with and approved by the division.

3. This section does not prohibit the organization and physician or delivery system intermediary from agreeing to prospective or retroactive adjustments of the per capital payment which reflect an increase in the number of enrollees or additional services tendered by the physician or delivery system intermediary.