

**ADOPTED REGULATION OF THE  
COMMISSIONER OF INSURANCE**

**LCB File No. R110-04**

Effective September 16, 2004

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

AUTHORITY: §§1-3, NRS 679B.130.

A REGULATION relating to administrative hearings; authorizing the Commissioner of Insurance to dismiss hearings under certain circumstances; allowing a hearing officer to proceed with a hearing if the party who requested the hearing fails to appear; and providing other matters properly relating thereto.

**Section 1.** Chapter 679B of NAC is hereby amended by adding thereto a new section to read as follows:

*1. The Commissioner may, in his discretion and for good cause, upon his own motion or upon the motion of any party, dismiss any action before the Division for want of prosecution after providing proper notice to all parties.*

*2. The Commissioner will dismiss any action for want of prosecution if, after a period of 1 year from the date the action was filed, the party requesting the hearing has, without good cause, caused the hearing to be delayed unreasonably.*

**Sec. 2.** NAC 679B.161 is hereby amended to read as follows:

679B.161 1. Except as otherwise provided in this section, the provisions of chapter 233B of NRS, NRS 679B.310 to 679B.370, inclusive, and NAC 679B.161 to 679B.480, inclusive, *and section 1 of this regulation* govern practice before the Division. To the extent that any action

before the Division is not covered by those provisions, the Division may follow any applicable rule in the Nevada Rules of Civil Procedure.

2. If good cause appears and if stipulated by all parties, the hearing officer may deviate from the provisions of NAC 679B.161 to 679B.480, inclusive ~~[ ]~~, *and section 1 of this regulation.*

**Sec. 3.** NAC 679B.321 is hereby amended to read as follows:

679B.321 If a party *requesting a hearing* fails to appear at the time and place set for the hearing, the hearing officer may ~~[dismiss]~~ :

1. *Proceed with the hearing without the party;*
2. *Dismiss* the proceeding with or without prejudice ~~[, or may recess]~~ ; *or*
3. *Recess* the hearing to a time set by him to enable the party to attend.

**NOTICE OF ADOPTION OF PROPOSED REGULATION**  
**LCB File No. R110-04**

The Commissioner of Insurance adopted regulations assigned LCB File No. R110-04 which pertain to chapter 679B of the Nevada Administrative Code on August 5, 2005

**Notice date:** 5/21/2004  
**Hearing date:** 6/24/2004

**Date of adoption by agency:** 8/5/2004  
**Filing date:** 9/16/2004

**INFORMATIONAL STATEMENT**

A workshop and hearing were held on June 24, 2004 at the offices of the Department of Business and Industry, Division of Insurance (Division), 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, with a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, Manufactured Housing Division Conference Room, 2<sup>nd</sup> Floor, Las Vegas, Nevada 89104, regarding the adoption of the regulation concerning the administrative hearings process.

Public comment was solicited by posting notice of the hearing in the following public locations: 788 Fairview Drive, Legislative Counsel Bureau, Capitol Building Lobby, Blasdel Building, Carson City Courthouse, State Library, Clark County Library, Capitol Press Room and the Division's Las Vegas Office.

The Division maintains a list of interested parties, comprised mainly of insurance companies, agencies and other persons regulated by the Division. These persons were notified of the workshop and hearing and that copies of the regulation could be obtained from or examined at the offices of the Division in Carson City.

The workshop and hearing were attended by 25 individuals. Betty C. Baker, representing the Division, presented the regulation and provided testimony. The Division received one written comment, from Mr. Jack Kim. Mr. Kim also presented oral testimony at the workshop suggesting the addition of language which would allow the Commissioner of Insurance (Commissioner) to consider whether a party failing to attend an administrative hearing had given prior notice of good cause. After some discussion, it was determined that the Commissioner already had discretion to consider the party's reasons for failing to attend the hearing. The Commissioner has issued an order adopting the regulation, as revised by the Legislative Counsel Bureau, as a permanent regulation of the Division.

The economic impact of the regulation is as follows:

- (a) On the business it is to regulate: The regulation will cause no long-term or short-term adverse economic effects.

- (b) On the public: The regulation will cause no long-term or short-term adverse economic effects.

The regulation imposes no additional cost to enforce.

The Division is not aware of any overlap or duplication of the regulation with any state, local, or federal regulation.

STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF INSURANCE

IN THE MATTER OF

CAUSE NO. **04.263**  
LCB FILE NO. **R110-04**

**REGULATION FOR ADMINISTRATIVE  
HEARINGS PROCESS.**

**SUMMARY OF PROCEEDINGS  
AND ORDER**

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**SUMMARY OF PROCEEDINGS**

A public workshop, as required by NRS 233B.061, on the proposed regulation relating to the administrative hearings process, was held before the Commissioner of Insurance (Commissioner) on June 24, 2004, at the offices of the Department of Business and Industry, Division of Insurance (Division), 788 Fairview Drive, Suite 300, Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, Nevada. A public hearing on the proposed regulation was held following the workshop, on June 24, 2004. The regulation is proposed pursuant to the authority of NRS 679B.130.

The hearing was attended by 25 individuals. Testimony was received at the hearing from Betty Baker, who presented the regulation for the Division, and by Jack Kim, who had also filed a written comment on the proposed regulation.

Betty Baker testified that the intent of the proposed regulation was to expedite the administrative hearing process at the Division. The proposed regulation would add a new section to chapter 679B of the Nevada Administrative Code (NAC) allowing the Commissioner to dismiss any action before the Division for want of prosecution after providing notice to all parties. The new section would mandate the dismissal of an action for want of prosecution after

a period of one year from the date the action is filed, if the party requesting the hearing has caused unreasonable delay of the hearing.

The proposed regulation would amend NAC 679B.321 in the case of a party who requests the hearing and, without good cause, fails to attend the hearing at the time and place set for the hearing, to allow the Commissioner to either proceed with the hearing without the party, dismiss with or without prejudice, or recess the hearing to another time to allow the party to attend.

Mr. Kim's written and oral comment was a suggestion to add language to the proposed amendment of NAC 679B.321 that provided for the party failing to attend the hearing to have given prior notice of good cause for missing the scheduled hearing. It was determined by the Commissioner that she already had such discretion in the proposed amendment of the regulation.

#### **ORDER OF THE COMMISSIONER**

Based upon the testimony received at the hearing, it is hereby ordered that the proposed regulation concerning the administrative hearings process, LCB File No. R110-04, be adopted, as revised by the Legislative Counsel Bureau, as a permanent regulation of the Division.

SO ORDERED this 5th day of August, 2004.

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ALICE A. MOLASKY-ARMAN  
Commissioner of Insurance