

**ADOPTED REGULATION OF
THE COMMISSIONER OF INSURANCE**

LCB File No. R103-09

Effective January 28, 2010

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

AUTHORITY: §§1-4, NRS 616A.469 and 679B.130; §5, NRS 679B.130; §6, NRS 679B.130 and 683A.378; §§7-10, NRS 679B.130 and 683A.371; §11, NRS 679B.130, 692A.090, 692A.100 and 692A.103; §12, NRS 679B.130, 695C.070 and 695C.275; §13, NRS 679B.130 and 695C.275; §14, NRS 679B.130 and 695D.100; §15, NRS 679B.130, 695F.110 and 695F.300.

A REGULATION relating to insurance; revising various provisions related to the Fund for Insurance Administration and Enforcement; 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 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 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 specialty; and
 - (d) The schedule of fees that the external review organization will charge to conduct an external review.

2. A written summary of the procedures that the external review organization will use to:
 - (a) Ensure that an external reviewer employed, contracted with or otherwise retained by the external review organization is qualified to conduct a specific external review;
 - (b) Ensure that the external review organization and any employee, agent or contractor of the external 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 complete and correct;
 - (b) The external review organization will conduct external reviews in accordance with NRS 616A.469 and 616C.363;
 - (c) The external review organization and any employee, agent or contractor of the external review organization will avoid a conflict of interest as set forth in NRS 616A.469; and
 - (d) The external 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. ~~[The fee]~~ *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 review organization has been certified or accredited as an external review organization by an accrediting body that is nationally recognized, an external 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 review organization has been certified or accredited as an external 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 review organization conducted by the accrediting body;
4. A copy of the schedule of fees that the external review organization will charge to conduct an external review; and

5. ~~[The fee]~~ *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.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 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 review organization will charge to conduct an external review; and

(c) ~~[The fee]~~ *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. 4. 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 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 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, and the regulations adopted pursuant thereto,

↳ a fee of \$600.

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

4. From an external review organization, all applicable fees required pursuant to section 3 of Senate Bill No. 426, chapter 365, Statutes of Nevada 2009, at page 1761 (NRS 680C.110).

Sec. 5. NAC 680A.120 is hereby amended to read as follows:

680A.120 No vending machine may be placed in use until an application has been made for a license for that machine, payment of ~~the \$78 fee~~ *all applicable fees* has been made to the Division and the license has been issued.

Sec. 6. NAC 683A.290 is hereby amended to read as follows:

683A.290 A person employed by a registered agent who performs utilization review is not required to pay the ~~fee~~ *fees* for registration or ~~the~~ renewal ~~fee~~ set forth in NRS 683A.378.

Sec. 7. NAC 683A.600 is hereby amended to read as follows:

683A.600 Except as otherwise provided in NAC 683A.610, an external 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 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 specialty; and

(d) The schedule of fees that the external review organization will charge to conduct an external review.

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

- (a) Ensure that the external 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 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 review organization and any employee, agent or contractor of the external review organization does not have a conflict of interest as set forth in subsection 4 of NRS 683A.371; 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 review organization will conduct external reviews in accordance with NRS 695G.241 to 695G.310, inclusive;
 - (c) The external review organization and any employee, agent or contractor of the external review organization will avoid a conflict of interest as set forth in subsection 4 of NRS 683A.371; and

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

- (1) A health care plan; or
- (2) A national, state or local trade association.

4. ~~The fee~~ *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. 8. NAC 683A.610 is hereby amended to read as follows:

683A.610 If an external review organization has been certified or accredited as an external review organization by an accrediting body that is nationally recognized, an external 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 review organization has been certified or accredited as an external 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 review organization conducted by the accrediting body;
4. The schedule of fees that the external review organization will charge to conduct an external review; and

5. ~~The fee~~ *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. 9. NAC 683A.630 is hereby amended to read as follows:

683A.630 1. In accordance with NRS 683A.371, 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 683A.650, the Commissioner will issue a renewal of a certificate to conduct external reviews if the external 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; and

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

Sec. 10. 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 review organization submitting an application for the initial issuance of a certificate to conduct external reviews pursuant to NAC 683A.600 or 683A.610, a fee of \$400.

2. From an external review organization submitting an application for:

(a) The initial issuance of a certificate 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 review organization submitting an application for the renewal of a certificate to conduct external reviews pursuant to NAC 683A.630, a fee of \$100.

4. From an external review organization, all applicable fees required pursuant to section 3 of Senate Bill No. 426, chapter 365, Statutes of Nevada 2009, at page 1761 (NRS 680C.110).

Sec. 11. NAC 692A.030 is hereby amended to read as follows:

692A.030 1. A written application for a title agent's or escrow officer's license must be filed with the Commissioner by the person applying for the license, accompanied by ~~the~~ *all* applicable ~~fee~~ *fees*. The application must include the following:

- (a) The name of the person applying for a license.
 - (b) Evidence that he is a bona fide resident of this State or resides not more than 50 miles from the border of this State.
 - (c) The name and address of each of his employers for at least 2 years immediately preceding the application.
 - (d) A description of his experience relating to title insurance or escrow and evidence of his knowledge of the laws of this State pertaining to insurance.
 - (e) A statement whether:
 - (1) The person is or was previously licensed to transact the business of insurance or to handle escrows, settlements or closings and, if so, where he was licensed and whether that license was ever suspended or revoked or the renewal or continuance of it refused;
 - (2) The person has ~~even~~ *ever* been denied such a license; and
 - (3) The person has ever had a contract as an agent or escrow officer cancelled and, if so, the reasons for that cancellation.
 - (f) Any other information reasonably required by the Commissioner to determine the person's qualifications for the license.
2. The application must be verified by the person applying for the license.

Sec. 12. NAC 695C.121 is hereby amended to read as follows:

695C.121 1. Any person applying for a certificate of authority as an organization shall file an application as follows:

(a) An original and three copies of the application must be submitted in binders having three rings.

(b) If a new page is submitted to supplement or amend the application, the date of submission must be noted on the bottom of the page, and the page must be prepared so it can be placed in the binder with the other materials.

(c) Each binder must contain a table of contents and include dividers which separate the various sections of the application and indicate the subject in each section.

(d) One binder must contain the original application, the original of the completed forms supplied by the Division and the original or a certified copy of any supporting document.

2. Any incomplete application on which there has been no activity by the applicant for 60 days shall be deemed withdrawn by the applicant. A new application accompanied by ~~the appropriate fee~~ *all applicable fees* must be submitted before the Division takes any further action. Written notice that the application is considered as withdrawn will be provided to the applicant by the Division.

3. The Division will notify the applicant when the application is complete and review of the application has begun.

4. Any application to be forwarded to the State Board of Health must be submitted to the Division for review as to whether it is complete at least 30 days before the deadline established by the State Board of Health for setting the agenda for its next meeting.

Sec. 13. NAC 695C.365 is hereby amended to read as follows:

695C.365 1. A provider-sponsored organization subject to this chapter shall pay to the Commissioner the following fees:

- (a) For filing an application for a certificate of authority, \$2,450.
- (b) For issuance of a certificate of authority, \$250.
- (c) For an amendment to a certificate of authority, \$100.
- (d) For the renewal of a certificate of authority, \$2,450.
- (e) For filing each annual report, \$25.

(f) All applicable fees required pursuant to section 3 of Senate Bill No. 426, chapter 365, Statutes of Nevada 2009, at page 1761 (NRS 680C.110).

2. At the time of filing the annual report, the provider-sponsored organization shall forward to the Department of Taxation the tax and any penalty for nonpayment or delinquent payment of the tax in accordance with the provisions of chapter 680B of NRS.

3. All fees paid pursuant to this section shall be deemed earned when paid and may not be refunded.

Sec. 14. NAC 695D.100 is hereby amended to read as follows:

695D.100 1. Any incomplete application, with respect to which there is no activity by the applicant for 60 days or more, shall be deemed to have been withdrawn by the applicant.

2. If an application is deemed withdrawn, the Division will give written notice to the applicant of the status of the application. A new application, together with ~~the fee~~ *all applicable fees, including, without limitation, all applicable fees* required by NRS 695D.130, must be submitted before the Division takes any further action.

Sec. 15. NAC 695F.120 is hereby amended to read as follows:

695F.120 1. A person applying for a certificate of authority to operate an organization must file an application as follows:

(a) An original and two copies of the application must be submitted in binders having three rings.

(b) If a new page is submitted to supplement or amend the application, the date of submission must be noted on the bottom of the page, and the page must be prepared so it can be placed in the binder with the other materials.

(c) Each binder must contain a table of contents and include dividers which separate the various sections of the application and indicate the subject in each section.

(d) One binder must contain the original application, the original of the completed forms supplied by the Division and the original or a certified copy of any supporting documents.

2. Any incomplete application on which there has been no activity by the applicant for 60 days shall be deemed withdrawn by the applicant. A new application accompanied by ~~the appropriate fee~~ *all applicable fees* must be submitted before the Commissioner takes any further action. Written notice that the application is considered as withdrawn will be provided to the applicant by the Commissioner.

NOTICE OF ADOPTION OF PROPOSED REGULATION

The Commissioner of Insurance adopted regulations assigned LCB File No. R103-09 which pertain to chapters 616A, 680A, 683A, 692A, 695C, 695D and 695F of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

A workshop was held on December 14, 2009, and a hearing was held on December 21, 2009, 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, 2nd Floor Conference Room, Las Vegas, Nevada 89104, regarding the adoption of regulations concerning the payment of fees for the Fund for Insurance Administration and Enforcement, pursuant to provisions of SB 426 passed during the 2009 Legislative Session.

Public comment was solicited by posting notice of the hearing at the following public locations: the Division’s Web-site, Division’s Carson City and Las Vegas offices, Carson City Courthouse, Office of the Attorney General, Capitol Building Lobby, Capitol Building Press Room, Blasdel Building, and Legislative Counsel Bureau; and by providing notice of the hearing to the Donald W. Reynolds Press Center, Nevada State Library, Carson City Library, Churchill County Library, Clark County District Library, Douglas County Library, Elko County Library, Esmeralda County Library, Eureka Branch Library, Humboldt County Library, Lander County Library, Lincoln County Library, Lyon County Library, Mineral County Library, Pershing County Library, Storey County Library, Tonopah Public Library, Washoe County Library, and White Pine County Library.

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 hearing and that copies of the regulation could be obtained from or examined at the offices of the Division in Carson City.

In addition to Division staff, the workshop was attended by two individuals in Carson City and one individual in Las Vegas. In addition to Division staff, the hearing was attended by one individual in Carson City, and no members of the public attended in Las Vegas. The proposed regulation was presented orally by Brett J. Barratt, Chief Insurance Assistant, on behalf of the Division. The Division did not receive any oral or written comments.

The economic impact of the regulation is as follows:

- (a) On the business it is to regulate: Because the proposed amendments to the subject regulations merely clarify new law created by the 2009 Legislature in Senate Bill (“SB”) 426, the proposed amendments to the subject fees do not, in and of themselves, have an economic effect on the business regulated. However, the provisions of SB 426 do require regulated entities to pay more fees.

- (b) On small businesses: Again, because the proposed amendments to the subject regulations implement and clarify new laws enacted in SB 426, the amendments themselves do not have an impact on small business. However, the provisions of SB 426 will require payments of new fees by all licensees under Title 57, some of whom are small businesses.
- (c) On the public: None.

It is anticipated that Division may incur some additional expense to enforce this regulation. However, as noted above, the amended regulations merely implement and clarify new law; the amended regulations themselves will not increase the Division's expenses.

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

There were no oral or written comments received at the workshop or hearing. Consequently, the regulation, LCB File No. R103-09, was adopted as drafted by the Legislative Counsel Bureau and as proposed.

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

IN THE MATTER OF THE

CAUSE NO. **09.0404**
LCB File No. **R103-09**

**REGULATION RELATING TO
PAYMENT OF FEES FOR THE FUND
FOR INSURANCE ADMINISTRATION
AND ENFORCEMENT**

**SUMMARY OF
PROCEEDINGS AND ORDER**

SUMMARY OF PROCEEDINGS

A public workshop, as required by Nevada Revised Statute (“NRS”) 233B.061, on the proposed regulation relating to the payment of fees for the fund for insurance administration and enforcement was held before Amy L. Parks, Esq., Chief Insurance Counsel (“Hearing Officer”), on December 14, 2009, at the offices of the Department of Business and Industry, Division of Insurance (“Division”), in Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, Nevada. A public hearing on the proposed regulation was also held before the Hearing Officer, on December 21, 2009, at the Division offices in Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, Nevada. The regulation is proposed under the authority of: §§1-4, NRS 616A.469 and 679B.130; §5, NRS 689B.130; §6, NRS 679B.130 and 683A.378; §§7-10, NRS 679B.130 and 683A.371; §11, NRS 679B.130, 692A.090, 692A.100 and 692A.103; §12, NRS 679B.130, 695C.070 and 695C.275; §13, NRS 679B.130 and 695C.275; §14, NRS 679B.130 and 695D.100; §15, NRS 679B.130, 695F.110 and 695F.300.

The workshop was attended by two interested parties in Carson City and one interested party in Las Vegas. During the workshop, Brett J. Barratt, Esq., Chief Insurance Assistant, orally presented the proposed regulation on behalf of the Division. No oral or written comments were received from interested parties.

The hearing was attended by one interested party in Carson City and was not attended by any interested parties in Las Vegas. At the hearing, Brett J. Barratt, Esq., Chief Insurance Assistant, orally presented the proposed regulation. The Division received no written comments at the hearing.

Mr. Barratt explained that the proposed amendments implement and clarify new law passed during the 2009 Legislative Session pursuant to Senate Bill (“SB”) 426. Mr. Barratt further explained that the relevant portions of SB 426 establish the Division as a fee-based or enterprise agency without General Fund support by requiring entities regulated by the Division to pay new fees for the Fund for Insurance Administration and Enforcement.

Because no written or oral comments from interested parties were received at the workshop or hearing, the proposed regulation, LCB File No. R103-09, was adopted as drafted by the Legislative Counsel Bureau.

RECOMMENDATION OF THE HEARING OFFICER

Based upon the testimony received at the hearing, it is recommended that the proposed regulation concerning the payment of fees for the fund for insurance administration and enforcement, Division’s Cause No. 09.0404, LCB File Number R103-09, be adopted, as proposed, as a permanent regulation of the Division.

SO RECOMMENDED this 12th day of January, 2010.

/s/
AMY L. PARKS
Hearing Officer

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ORDER OF THE COMMISSIONER

Having reviewed the record in this matter, it is hereby ordered that the proposed regulation concerning the payment of fees for the fund for insurance administration and enforcement, Division's Cause No. 09.0404, LCB File Number R103-09, be adopted, as proposed, as a permanent regulation of the Division.

SO ORDERED this 12th day of January, 2010.

/s/
SCOTT J. KIPPER
Commissioner of Insurance