

ASSEMBLY BILL NO. 150—ASSEMBLYMAN SPRINKLE

PREFILED FEBRUARY 13, 2017

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing private professional guardians. (BDR 13-808)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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

AN ACT relating to private professional guardians; revising provisions governing the qualifications necessary to serve as a private professional guardian; requiring certain persons to submit fingerprints to the Division of Financial Institutions of the Department of Business and Industry not less than once every 5 years for the purpose of obtaining a report from the Federal Bureau of Investigation; requiring the Division to maintain a copy of all such reports; requiring the Commissioner of Financial Institutions to adopt regulations establishing any fee required to obtain such reports; replacing references to the term “case manager”; removing the provision that exempts private professional guardians from the provisions of law concerning summary administration granted by a court; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law provides that in order for a natural person to serve as a private  
2 professional guardian, the person must be: (1) qualified to serve as a guardian for  
3 an adult or a minor; and (2) a guardian who has a license to engage in the business  
4 of a private professional guardian or who does not have such a license but is  
5 certified by the Center for Guardianship Certification. (NRS 159.0595) **Section 2** of  
6 this bill removes the requirement relating to the licensure of a natural person and  
7 generally provides that in order for a person to serve as a private professional  
8 guardian, the person must be: (1) a natural person who is employed by an entity  
9 that is licensed to engage in the business of a private professional guardian and who  
10 is certified by the Center for Guardianship Certification; or (2) an entity that is  
11 licensed to engage in the business of a private professional guardian and meets



\* A B 1 5 0 \*

12 certain other requirements. **Sections 1, 4-9, 11-13 and 15-20** of this bill make  
13 conforming changes.

14 Existing law requires, as part of an application for a license to engage in the  
15 business of a private professional guardian, that certain persons submit to the  
16 Commissioner of Financial Institutions a complete set of fingerprints and written  
17 permission authorizing the Division of Financial Institutions of the Department of  
18 Business and Industry to forward the fingerprints to the Central Repository for  
19 Nevada Records of Criminal History for submission to the Federal Bureau of  
20 Investigation (hereinafter "FBI") for its report. (NRS 628B.310) **Section 3** of this  
21 bill requires: (1) certain persons to submit to the Commissioner, not less than once  
22 every 5 years, a complete set of fingerprints and such written permission to enable  
23 the Division to obtain a report from the FBI; and (2) the Division to maintain a  
24 copy of all reports obtained from the FBI. **Section 3** also requires the  
25 Commissioner to adopt regulations establishing the amount of any fee required to  
26 obtain a report from the FBI.

27 Existing law also requires the Commissioner to investigate the facts of an  
28 application and the other requirements set forth by law to determine information  
29 about certain persons, including any person acting in a case manager capacity.  
30 (NRS 628B.330) Existing law further requires the director or manager of a private  
31 professional guardian company to require fidelity bonds on certain persons,  
32 including a member of the company acting in a case manager capacity, to  
33 indemnify the company against loss. (NRS 628B.540) **Sections 9, 10 and 14** of this  
34 bill replace the term "case manager" with references to a person who acts in a  
35 capacity in which he or she is authorized to make discretionary decisions on behalf  
36 of the applicant or private professional guardian company, as applicable.

37 Existing law provides that with regard to guardianships and the administration  
38 of smaller estates, the court is authorized to grant a summary administration if it  
39 appears that the value of the property of a ward, after payment of all claims and  
40 expenses of the guardianship, does not exceed \$10,000. If the court grants a  
41 summary administration, the guardian is required to file an inventory and record of  
42 value with the court, and the court is authorized to impose certain requirements  
43 upon the guardian. (NRS 159.076) Existing law also provides that such provisions  
44 concerning summary administration do not apply to a private professional guardian.  
45 (NRS 628B.550) **Section 15** removes this exemption.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 159.024 is hereby amended to read as follows:

2 159.024 1. "Private professional guardian" means a person  
3 who receives compensation for services as a guardian to three or  
4 more wards who are not related to the guardian by blood or  
5 marriage ~~+~~ *and who meets the requirements set forth in*  
6 *NRS 159.0595.*

7 2. For the purposes of this chapter, the term includes ~~+~~  
8 ~~—(a) A person who~~ *an entity that* serves as a private professional  
9 guardian and ~~who~~ is ~~required~~ :

10 (a) *Required* to have a license issued pursuant to chapter 628B  
11 of NRS ~~+~~; *or*



1 (b) ~~{A person who serves as a private professional guardian but~~  
2 ~~who is exempt}~~ *Exempt* pursuant to NRS 159.0595 or 628B.110  
3 from the requirement to have a license issued pursuant to chapter  
4 628B of NRS.

5 3. The term does not include:

6 (a) A governmental agency.

7 (b) A public guardian appointed or designated pursuant to the  
8 provisions of chapter 253 of NRS.

9 **Sec. 2.** NRS 159.0595 is hereby amended to read as follows:

10 159.0595 1. In order for a person to serve as a private  
11 professional guardian, the person must be:

12 (a) ~~{Qualified to serve as a guardian pursuant to NRS 159.0613~~  
13 ~~if the ward is an adult or NRS 159.061 if the ward is a minor; and~~

14 ~~—(b)}~~ A *guardian natural person* who ~~{has a license issued}~~ *is a*  
15 *certified guardian and is employed by an entity that is licensed*  
16 pursuant to chapter 628B of NRS ~~{or a certified guardian who}~~ ,  
17 *unless the entity* is not required to have such a license pursuant to  
18 subsection ~~{3}~~.

19 ~~—2. In order for an entity to serve as a private professional~~  
20 ~~guardian, the}~~ 2; or

21 (b) An entity ~~{must:~~

22 ~~—(a) Be}~~ that:

23 (1) *Is* qualified to serve as a guardian pursuant to NRS  
24 159.0613 if the ward is an adult;

25 ~~{(b) Have}~~

26 (2) *Has* a license issued pursuant to chapter 628B of NRS ,  
27 unless the entity is not required to have such a license pursuant to  
28 subsection ~~{3}~~ 2; and

29 ~~{(c) Have}~~

30 (3) *Has* a *private professional* guardian who ~~{has a license~~  
31 ~~issued pursuant to chapter 628B of NRS or a certified guardian who~~  
32 ~~is not required to have such a license pursuant to subsection 3}~~  
33 *meets the requirements set forth in paragraph (a)* involved in the  
34 day-to-day operation or management of the entity.

35 ~~{3. In order for a person or}~~

36 2. An entity *that wishes* to serve as a private professional  
37 guardian ~~{, the person or entity}~~ is not required to have a license  
38 issued pursuant to chapter 628B of NRS if the ~~{person or}~~ entity is  
39 exempt from the requirement to have such a license pursuant to  
40 NRS 628B.110 . ~~{and the person or entity:~~

41 ~~—(a) Is a banking corporation as defined in NRS 657.016;~~

42 ~~—(b) Is an organization permitted to act as a fiduciary pursuant to~~  
43 ~~NRS 662.245;~~

44 ~~—(c) Is a trust company as defined in NRS 669.070;~~



1 ~~—(d) Is acting in the performance of his or her duties as an~~  
2 ~~attorney at law;~~

3 ~~—(e) Acts as a trustee under a deed of trust; or~~

4 ~~—(f) Acts as a fiduciary under a court trust.~~

5 ~~—4.†~~ 3. As used in this section:

6 (a) “Certified guardian” means a person who is certified by the  
7 Center for Guardianship Certification or any successor organization.

8 (b) “Entity” includes, without limitation, a corporation, whether  
9 or not for profit, a limited-liability company and a partnership.

10 ~~†(c) “Person” means a natural person.†~~

11 **Sec. 3.** Chapter 628B of NRS is hereby amended by adding  
12 thereto a new section to read as follows:

13 *1. Each member, partner, director, officer, manager or*  
14 *employee of a private professional guardian company, and any*  
15 *person who acts in a capacity in which he or she is authorized to*  
16 *make discretionary decisions on behalf of the private professional*  
17 *guardian company, shall, before acting in any such capacity and*  
18 *not less than once every 5 years thereafter, submit to the*  
19 *Commissioner pursuant to this section or subsection 5 of NRS*  
20 *628B.310, as applicable, a complete set of fingerprints and written*  
21 *permission authorizing the Division to forward the fingerprints to*  
22 *the Central Repository for Nevada Records of Criminal History*  
23 *for submission to the Federal Bureau of Investigation for its*  
24 *report.*

25 *2. The Division shall maintain a copy of all reports obtained*  
26 *pursuant to this section and subsection 5 of NRS 628B.310.*

27 *3. The Commissioner shall adopt regulations establishing the*  
28 *amount of any fee required to obtain a report pursuant to this*  
29 *section. All money received by the Commissioner must be placed*  
30 *in the Investigative Account for Financial Institutions created by*  
31 *NRS 232.545.*

32 **Sec. 4.** NRS 628B.010 is hereby amended to read as follows:

33 628B.010 The Legislature finds and declares that:

34 1. There exists in this State a need, in order to provide for the  
35 protection of the public interest, to regulate ~~†persons†~~ *entities*  
36 engaged in the business of private professional guardians ~~††~~ *and*  
37 *persons employed by such entities.*

38 2. ~~†Persons†~~ *Entities* engaging in the business of private  
39 professional guardians must be licensed and regulated in such a  
40 manner as to promote advantages and convenience for the public  
41 while protecting the public interest.

42 3. It is the purpose of this chapter to bring under public  
43 supervision ~~†persons who†~~ *entities that* are engaged in or ~~†who†~~  
44 desire to engage in the business of a private professional guardian  
45 and to ensure that there is established in this State an adequate,



1 efficient and competitive private professional guardian service  
2 available to the courts and the public at large.

3 **Sec. 5.** NRS 628B.030 is hereby amended to read as follows:

4 628B.030 “Business of a private professional guardian” means  
5 the holding out by ~~{a person,}~~ *an entity*, through advertising,  
6 solicitation or other means, that the ~~{person}~~ *entity or a person*  
7 *employed by the entity* is available to act for compensation as a  
8 private professional guardian.

9 **Sec. 6.** NRS 628B.080 is hereby amended to read as follows:

10 628B.080 1. “Private professional guardian” has the meaning  
11 ascribed to it in NRS 159.024.

12 2. For the purposes of this chapter, the term does not include ~~{a~~  
13 ~~person who}~~ *an entity that* serves as a private professional guardian  
14 but ~~{who}~~ is exempt pursuant to NRS 159.0595 or 628B.110 from  
15 the requirement to have a license issued pursuant to this chapter.

16 **Sec. 7.** NRS 628B.090 is hereby amended to read as follows:

17 628B.090 1. “Private professional guardian company” means  
18 a ~~{natural person or}~~ business entity, including, without limitation, a  
19 sole proprietorship, partnership, limited-liability company or  
20 corporation, that is licensed pursuant to the provisions of this  
21 chapter to engage in the business of a private professional guardian,  
22 whether appointed by a court or hired by a private party.

23 2. For the purposes of this chapter, the term does not include a  
24 ~~{natural person or}~~ business entity which engages in the business of  
25 a private professional guardian but which is exempt pursuant to  
26 NRS 159.0595 or 628B.110 from the requirement to have a license  
27 issued pursuant to this chapter.

28 **Sec. 8.** NRS 628B.300 is hereby amended to read as follows:

29 628B.300 It is unlawful for any ~~{person}~~ *entity* to engage in the  
30 business of a private professional guardian without having a license  
31 issued by the Commissioner pursuant to this chapter.

32 **Sec. 9.** NRS 628B.310 is hereby amended to read as follows:

33 628B.310 1. ~~{A person wishing}~~ *An applicant for a license*  
34 to engage in the business of a private professional guardian in this  
35 State must file with the Commissioner an application on a form  
36 prescribed by the Commissioner, which must contain or be  
37 accompanied by such information as is required.

38 2. A nonrefundable fee of not more than \$750 must accompany  
39 the application. The applicant must also pay such reasonable  
40 additional expenses incurred in the process of investigation as the  
41 Commissioner deems necessary.

42 3. The application must contain:

43 (a) The name of the applicant and the name under which the  
44 applicant does business or expects to do business, if different.



- 1 (b) The complete business and residence addresses of the  
2 applicant.
- 3 (c) The character of the business sought to be carried on.
- 4 (d) The address of any location where business will be  
5 transacted.
- 6 (e) In the case of a firm or partnership, the full name and  
7 residence address of each member or partner and the manager.
- 8 (f) In the case of a corporation or voluntary association, the  
9 name and residence address of each director and officer and the  
10 manager.
- 11 (g) A statement by the applicant acknowledging that the  
12 applicant is required to comply with the provisions of NRS  
13 159.0595 if issued a license.
- 14 (h) Any other information reasonably related to the applicant's  
15 qualifications for the license which the Commissioner determines to  
16 be necessary.
- 17 4. Each application for a license must have attached to it a  
18 financial statement showing the assets, liabilities and net worth of  
19 the applicant.
- 20 5. In addition to any other requirements, each applicant or  
21 member, partner, director, officer, manager or ~~lease manager~~  
22 *employee* of an applicant, *and any person who acts in a capacity in*  
23 *which he or she is authorized to make discretionary decisions on*  
24 *behalf of the applicant*, shall submit to the Commissioner a  
25 complete set of fingerprints and written permission authorizing the  
26 Division to forward the fingerprints to the Central Repository for  
27 Nevada Records of Criminal History for submission to the Federal  
28 Bureau of Investigation for its report.
- 29 6. If the applicant is a corporation or limited-liability company,  
30 the articles of incorporation or articles of organization must contain:
- 31 (a) The name adopted by the private professional guardian  
32 company, which must distinguish it from any other private  
33 professional guardian company formed or incorporated in this State  
34 or engaged in the business of a private professional guardian in this  
35 State; and
- 36 (b) The purpose for which it is formed.
- 37 7. The Commissioner shall deem an application to be  
38 withdrawn if the Commissioner has not received all information and  
39 fees required to complete the application within 6 months after the  
40 date the application is submitted to the Commissioner. If an  
41 application is deemed to be withdrawn pursuant to this subsection or  
42 if an applicant otherwise withdraws an application, the  
43 Commissioner may not issue a license to the applicant unless the  
44 applicant submits a new application and pays the required fees.



1 8. The Commissioner shall adopt regulations establishing the  
2 amount of the fees required pursuant to this section, subject to the  
3 following limitations:

4 (a) An initial fee of not more than \$1,500 for a license to  
5 transact the business of a private professional guardian; and

6 (b) A fee of not more than \$300 for each branch office that is  
7 authorized by the Commissioner.

8 9. All money received by the Commissioner pursuant to this  
9 section must be placed in the Investigative Account for Financial  
10 Institutions created by NRS 232.545.

11 **Sec. 10.** NRS 628B.330 is hereby amended to read as follows:

12 628B.330 1. Within 90 days after the application for a license  
13 is filed, the Commissioner shall investigate the facts of the  
14 application and the other requirements of this chapter to determine:

15 (a) That each person who will serve as a sole proprietor, partner  
16 of a partnership, member of a limited-liability company or director  
17 or officer of a corporation, and any person acting in a managerial ~~for~~  
18 ~~case manager~~ capacity ~~};~~ *or in a capacity in which he or she is*  
19 *authorized to make discretionary decisions on behalf of the*  
20 *applicant*, as applicable:

21 (1) Has a good reputation for honesty, trustworthiness and  
22 integrity and displays competence to engage in the business of a  
23 private professional guardian in a manner which safeguards the  
24 interests of the general public. The applicant must submit  
25 satisfactory proof of those qualifications, including, without  
26 limitation, evidence that the applicant has passed an examination for  
27 private professional guardians specified by the Commissioner.

28 (2) Has not been convicted of, or entered a plea of guilty or  
29 nolo contendere to, a felony or any crime involving fraud,  
30 misrepresentation, material omission, misappropriation, conversion  
31 or moral turpitude.

32 (3) Has not made a false statement of material fact on the  
33 application.

34 (4) Has not been a sole proprietor or an officer or member of  
35 the board of directors for an entity whose license issued pursuant to  
36 the provisions of this chapter was suspended or revoked within the  
37 10 years immediately preceding the date of the application if, in  
38 the reasonable judgment of the Commissioner, there is evidence that  
39 the sole proprietor, officer or member materially contributed to the  
40 actions resulting in the suspension or revocation of the license.

41 (5) Has not been a sole proprietor or an officer or member of  
42 the board of directors for an entity whose license as a private  
43 professional guardian company which was issued by any other state,  
44 district or territory of the United States or any foreign country was  
45 suspended or revoked within the 10 years immediately preceding the





1 date of the application if, in the reasonable judgment of the  
2 Commissioner, there is evidence that the sole proprietor, officer or  
3 member materially contributed to the actions resulting in the  
4 suspension or revocation of the license.

5 (6) Has not violated any of the provisions of this chapter or  
6 any regulations adopted pursuant thereto.

7 (b) That the financial status of each sole proprietor, partner,  
8 member or director and officer of the corporation and person acting  
9 in a managerial ~~for case manager~~ capacity *or in a capacity in*  
10 *which he or she is authorized to make discretionary decisions on*  
11 *behalf of the applicant* indicates fiscal responsibility consistent with  
12 his or her position.

13 (c) That the name of the proposed business complies with all  
14 applicable statutes.

15 (d) That, except as otherwise provided in NRS 628B.540, the  
16 initial surety bond is not less than the amount required by  
17 NRS 159.065.

18 2. In rendering a decision on an application for a license, the  
19 Commissioner shall consider, without limitation:

20 (a) The proposed markets to be served and, if they extend  
21 outside this State, any exceptional risk, examination or supervision  
22 concerns associated with those markets;

23 (b) Whether the proposed organizational and equity structure  
24 and the amount of initial equity or fidelity and surety bonds of the  
25 applicant appear adequate in relation to the proposed business and  
26 markets, including, without limitation, the average level of assets  
27 under guardianship projected for each of the first 3 years of  
28 operation; and

29 (c) Whether the applicant has planned suitable annual audits  
30 conducted by qualified outside auditors of its books and records and  
31 its fiduciary activities under applicable accounting rules and  
32 standards as well as suitable internal audits.

33 **Sec. 11.** NRS 628B.380 is hereby amended to read as follows:

34 628B.380 1. A license issued pursuant to this chapter is not  
35 transferable or assignable, but upon the approval of the  
36 Commissioner and any applicable court of jurisdiction, a ~~licensee~~  
37 *private professional guardian company* may merge or consolidate  
38 with, or transfer its assets and control to, another ~~person who holds~~  
39 ~~a license pursuant to this chapter.~~ *private professional guardian*  
40 *company*. In determining whether to grant the approval, the  
41 Commissioner may consider the factors set forth in NRS 628B.330.

42 2. If a change in the control of a private professional guardian  
43 company occurs, the chief executive officer or managing member of  
44 the company shall report the change in control and the name of the





1 person obtaining control to the Commissioner within 5 business  
2 days after obtaining knowledge of the change.

3 3. A private professional guardian company shall, within 5  
4 business days after a change in the chief executive officer, managing  
5 member or a majority of the directors or managing directors of the  
6 company occurs, report the change to the Commissioner. The  
7 company shall include in its report to the Commissioner a statement  
8 of the past and current business and professional affiliations of each  
9 new chief executive officer, managing member, director or  
10 managing director. A new chief executive officer, managing  
11 member, director or managing director shall furnish to the  
12 Commissioner a complete financial statement on a form prescribed  
13 by the Commissioner.

14 4. A person who intends to acquire control of a private  
15 professional guardian company shall submit an application to the  
16 Commissioner. The application must be submitted on a form  
17 prescribed by the Commissioner. The Commissioner shall conduct  
18 an investigation pursuant to NRS 628B.330 to determine whether  
19 the person has a good reputation for honesty, trustworthiness and  
20 integrity and is competent to control the private professional  
21 guardian company in a manner which protects the interests of the  
22 general public.

23 5. The private professional guardian company of which the  
24 applicant intends to acquire control shall pay the nonrefundable cost  
25 of the investigation as required by the Commissioner. If the  
26 Commissioner denies the application, the Commissioner may  
27 prohibit or limit the applicant's participation in the business.

28 6. As used in this section, "control" means the possession,  
29 directly or indirectly, of the authority to direct or cause the direction  
30 of the management and policy of a private professional guardian  
31 company, or a change in the ownership of at least 25 percent of the  
32 outstanding voting stock of, or participating members' interest in,  
33 the company.

34 **Sec. 12.** NRS 628B.520 is hereby amended to read as follows:

35 628B.520 1. A private professional guardian company  
36 licensed pursuant to this chapter shall maintain its principal office in  
37 this State.

38 2. To qualify as the principal office for the purposes of  
39 subsection 1, an office of the private professional guardian company  
40 must:

41 (a) Have a verifiable physical location in this State at which the  
42 private professional guardian company conducts such business  
43 operations in this State as are necessary to administer private  
44 professional guardianships in this State;



1 (b) Have available at the office a private professional guardian  
2 who *meets the requirements set forth in paragraph (a) of*  
3 *subsection 1 of NRS 159.0595 and is licensed pursuant to this*  
4 *chapter,* a permanent resident of this State and at least 21 years of  
5 age;

6 (c) Have any license issued pursuant to this chapter  
7 conspicuously displayed;

8 (d) Have available at the office originals or true copies of all  
9 material business records and accounts of the private professional  
10 guardian company, which must be readily available to access and  
11 readily available for examination by the Division;

12 (e) Have available to the public written procedures for making  
13 claims against the surety bond required to be maintained pursuant to  
14 NRS 628B.540;

15 (f) Have available all services to residents of this State which are  
16 consistent with the business plan of the private professional  
17 guardian company included with the application for a license; and

18 (g) Comply with any other requirements specified by the  
19 Commissioner.

20 **Sec. 13.** NRS 628B.530 is hereby amended to read as follows:

21 628B.530 1. It is unlawful for any ~~person~~ *private*  
22 *professional guardian company* licensed pursuant to this chapter to  
23 engage in the business of a private professional guardian at any  
24 office outside this State without the prior approval of the  
25 Commissioner.

26 2. Before the Commissioner will approve a branch to be  
27 located outside this State, the private professional guardian  
28 *company* must:

29 (a) Obtain from that state any required license as a private  
30 professional guardian; or

31 (b) Provide proof satisfactory to the Commissioner that the  
32 private professional guardian company has met all the requirements  
33 to engage in the business of a private professional guardian in that  
34 state pursuant to its laws, including, without limitation, written  
35 documentation from the appropriate court or state agency that the  
36 private professional guardian company is authorized to do business  
37 in that state.

38 3. For each branch location of a private professional guardian  
39 company organized under the laws of this State, and every branch  
40 location in this State of a foreign private professional guardian  
41 company authorized to do business in this State, a request for  
42 approval and licensing must be filed with the Commissioner on  
43 forms prescribed by the Commissioner. A nonrefundable fee of not  
44 more than \$500, as provided by the Commissioner, must accompany  
45 each request. In addition, a fee of not more than \$200, to be prorated



1 on the basis of the licensing year as provided by the Commissioner,  
2 must be paid at the time of making the request. Money collected  
3 pursuant to this section must be deposited in the Investigative  
4 Account for Financial Institutions created by NRS 232.545.

5 4. A foreign corporation or limited-liability company wishing  
6 to engage in the business of a private professional guardian in this  
7 State must use a name that distinguishes it from any other private  
8 professional guardian in this State.

9 **Sec. 14.** NRS 628B.540 is hereby amended to read as follows:

10 628B.540 1. The Commissioner may require a private  
11 professional guardian company to maintain equity, fidelity and  
12 surety bonds in amounts that are more than the minimum required  
13 initially or at any subsequent time based on the Commissioner's  
14 assessment of the risks associated with the business plan of the  
15 private professional guardian or other information contained in the  
16 application, the Commissioner's investigation of the application or  
17 any examination of or filing by the private professional guardian  
18 company thereafter, including, without limitation, any examination  
19 before the opening of the business. In making such a determination,  
20 the Commissioner may consider, without limitation:

21 (a) The nature and type of business to be conducted by the  
22 private professional guardian company;

23 (b) The nature and liquidity of assets proposed to be held in the  
24 account of the private professional guardian company;

25 (c) The amount of fiduciary assets projected to be under the  
26 management or administration of the private professional guardian  
27 company;

28 (d) The type of fiduciary assets proposed to be held and any  
29 proposed depository of such assets;

30 (e) The complexity of the fiduciary duties and degree of  
31 discretion proposed to be undertaken by the private professional  
32 guardian company;

33 (f) The competence and experience of the proposed management  
34 of the private professional guardian company;

35 (g) The extent and adequacy of proposed internal controls;

36 (h) The proposed presence of annual audits by an independent  
37 certified public accountant, and the scope and frequency of such  
38 audits, whether they result in an opinion of the accountant and any  
39 qualifications to the opinion;

40 (i) The reasonableness of business plans for retaining or  
41 acquiring additional equity capital;

42 (j) The adequacy of fidelity and surety bonds and any additional  
43 insurance proposed to be obtained by the private professional  
44 guardian company for the purpose of protecting its fiduciary assets;



1 (k) The success of the private professional guardian company in  
2 achieving the financial projections submitted with its application for  
3 a license; and

4 (l) The fulfillment by the private professional guardian company  
5 of its representations and its descriptions of its business structures  
6 and methods and management set forth in its application for a  
7 license.

8 2. The director or manager of a private professional guardian  
9 company shall require fidelity bonds in the amount of at least  
10 \$25,000 on the sole proprietor or each active officer, manager,  
11 *employee and* member acting in a managerial ~~for case manager~~  
12 capacity ~~and employee,~~ *or in a capacity in which he or she is*  
13 *authorized to make discretionary decisions on behalf of the private*  
14 *professional guardian company*, regardless of whether the person  
15 receives a salary or other compensation from the private  
16 professional guardian company, to indemnify the company against  
17 loss due to any dishonest, fraudulent or criminal act or omission by  
18 a person upon whom a bond is required pursuant to this section who  
19 acts alone or in combination with any other person. A bond required  
20 pursuant to this section may be in any form and may be paid for by  
21 the private professional guardian company.

22 3. A private professional guardian company shall obtain  
23 suitable insurance against burglary, robbery, theft and other hazards  
24 to which it may be exposed in the operation of its business.

25 4. A private professional guardian company shall obtain  
26 suitable surety bonds in accordance with NRS 159.065, as  
27 applicable.

28 5. The surety bond obtained pursuant to subsection 4 must be  
29 in a form approved by a court of competent jurisdiction and the  
30 Division and conditioned that the applicant conduct his or her  
31 business in accordance with the requirements of this chapter. The  
32 bond must be made and executed by the principal and a surety  
33 company authorized to write bonds in this State.

34 6. A private professional guardian company shall at least  
35 annually prescribe the amount or penal sum of the bonds or policies  
36 of the company and designate the sureties and underwriters thereof,  
37 after considering all known elements and factors constituting a risk  
38 or hazard. The action must be recorded in the minutes kept by the  
39 private professional guardian company and reported to the  
40 Commissioner.

41 7. The bond must cover all matters placed with the private  
42 professional guardian company during the term of the license or a  
43 renewal thereof.

44 8. An action may not be brought upon any bond after 2 years  
45 from the revocation or expiration of the license.



1 9. After 2 years, all liability of the surety or sureties upon the  
2 bond ceases if no action is commenced upon the bond.

3 **Sec. 15.** NRS 628B.550 is hereby amended to read as follows:

4 628B.550 1. The fiduciary relationship which exists between  
5 a private professional guardian and the ward of the private  
6 professional guardian may not be used for the private gain of the  
7 guardian other than the remuneration for fees and expenses. A  
8 private professional guardian may not incur any obligation on behalf  
9 of the guardianship that conflicts with the discharge of the duties of  
10 the private professional guardian.

11 2. Unless prior approval is obtained from a court of competent  
12 jurisdiction, a private professional guardian shall not:

13 (a) Have any interest, financial or otherwise, direct or indirect,  
14 in any business transaction or activity with the guardianship.

15 (b) Acquire an ownership, possessory, security or other  
16 pecuniary interest adverse to the ward.

17 (c) Be knowingly designated as a beneficiary on any life  
18 insurance policy or pension or benefit plan of the ward unless such  
19 designation was validly made by the ward before the adjudication of  
20 the person's incapacity.

21 (d) Directly or indirectly purchase, rent, lease or sell any  
22 property or services from or to any business entity in which the  
23 private professional guardian, or the spouse or relative of the  
24 guardian, is an officer, partner, director, shareholder or proprietor or  
25 in which such a person has any financial interest.

26 3. Any action taken by a private professional guardian which is  
27 prohibited by this section may be voided during the term of the  
28 guardianship or by the personal representative of the ward's estate.  
29 The private professional guardian is subject to removal and to  
30 imposition of personal liability through a proceeding for discharge,  
31 in addition to any other remedies otherwise available.

32 4. A court shall not appoint a private professional guardian that  
33 ~~is~~ **does** not ~~licensed pursuant to this chapter~~ **meet the**  
34 **requirements set forth in NRS 159.0595** as the guardian of a person  
35 or estate. The court must review each guardianship involving a  
36 private professional guardian on the anniversary date of the  
37 appointment of the private professional guardian. If a private  
38 professional guardian does not ~~hold a current license,~~ **meet the**  
39 **requirements set forth in NRS 159.0595**, the court must replace the  
40 guardian until such time as the private professional guardian  
41 ~~obtains the necessary license,~~ **meets such requirements.**

42 5. ~~The provisions of NRS 159.076 regarding summary~~  
43 ~~administration do not apply to a private professional guardian.~~

44 ~~6. A licensee~~ **A private professional guardian** shall file any  
45 report required by the court in a timely manner.



1       **Sec. 16.** NRS 628B.560 is hereby amended to read as follows:

2       628B.560 1. Except as otherwise provided in NRS 159.076, a  
3       ~~licensee~~ *private professional guardian company* shall maintain a  
4       separate guardianship account for each ward into which all money  
5       received for the benefit of the ward must be deposited. Each  
6       guardianship account must be maintained in an insured bank or  
7       credit union located in this State, be held in a name which is  
8       sufficient to distinguish it from the personal or general checking  
9       account of the ~~licensee~~ *private professional guardian company*  
10      and be designated as a guardianship account. Each guardianship  
11      account must at all times account for all money received for the  
12      benefit of the ward and account for all money dispersed for the  
13      benefit of the ward, and no disbursement may be made from  
14      the account except as authorized under chapter 159 of NRS or as  
15      authorized by court order.

16      2. Each ~~licensee~~ *private professional guardian company*  
17      shall keep a record of all money deposited in each guardianship  
18      account maintained for a ward, which must clearly indicate the date  
19      and from whom the money was received, the date the money was  
20      deposited, the dates of withdrawals of money and other pertinent  
21      information concerning the transactions. Records kept pursuant to  
22      this subsection must be maintained for at least 6 years after the  
23      completion of the last transaction concerning the account. The  
24      records must be maintained at the premises in this State at which the  
25      ~~licensee~~ *private professional guardian company* is authorized to  
26      conduct business.

27      3. The Commissioner or his or her designee may conduct an  
28      examination of the guardianship accounts and records relating to  
29      wards of each private professional guardian company licensed  
30      pursuant to this chapter at any time to ensure compliance with the  
31      provisions of this chapter.

32      4. During the first year a private professional guardian  
33      *company* is licensed in this State, the Commissioner or his or her  
34      designee may conduct any examinations deemed necessary to  
35      ensure compliance with the provisions of this chapter.

36      5. If there is evidence that a private professional guardian  
37      company has violated a provision of this chapter, the Commissioner  
38      or his or her designee may conduct additional examinations to  
39      determine whether a violation has occurred.

40      6. Each ~~licensee~~ *private professional guardian company*  
41      shall authorize the Commissioner or his or her designee to examine  
42      all books, records, papers and effects of the private professional  
43      guardian company.

44      7. If the Commissioner determines that the records of a  
45      ~~licensee~~ *private professional guardian company* are not



1 maintained in accordance with subsections 1 and 2, the  
2 Commissioner may require the ~~licensee~~ *private professional*  
3 *guardian company* to submit, within 60 days, an audited financial  
4 statement prepared from the records of the ~~licensee~~ *private*  
5 *professional guardian company* by a certified public accountant  
6 who holds a certificate to engage in the practice of public  
7 accounting in this State. The Commissioner may grant a reasonable  
8 extension of time for the submission of the financial statement if an  
9 extension is requested before the statement is due.

10 8. Upon the request of the Division, a ~~licensee~~ *private*  
11 *professional guardian company* must provide to the Division  
12 copies of any documents reviewed during an examination conducted  
13 by the Commissioner or his or her designee pursuant to subsection  
14 4, 5 or 6. If the copies are not provided, the Commissioner may  
15 subpoena the documents.

16 9. For each examination of the books, papers, records and  
17 effects of a private professional guardian company that is required  
18 or authorized pursuant to this chapter, the Commissioner shall  
19 charge and collect from the private professional guardian company a  
20 fee for conducting the examination and preparing a report of the  
21 examination based upon the rate established by regulation pursuant  
22 to NRS 658.101. Failure to pay the fee within 30 days after receipt  
23 of the bill is grounds for revoking the license of the private  
24 professional guardian company.

25 10. All money collected under this section must be deposited in  
26 the State Treasury pursuant to the provisions of NRS 658.091.

27 **Sec. 17.** NRS 628B.730 is hereby amended to read as follows:

28 628B.730 1. If the Commissioner has reason to believe that  
29 grounds for the revocation or suspension of a license exist,  
30 the Commissioner shall give at least 20 days' written notice to the  
31 ~~licensee~~ *private professional guardian company* stating the  
32 contemplated action and, in general, the grounds therefor and set a  
33 date for a hearing.

34 2. At the conclusion of a hearing, the Commissioner shall:

35 (a) Enter a written order dismissing the charges, revoking the  
36 license or suspending the license for a period of not more than 60  
37 days, which period must include any prior temporary suspension.  
38 The Commissioner shall send a copy of the order to the ~~licensee~~  
39 *private professional guardian company* by registered or certified  
40 mail.

41 (b) Impose upon the ~~licensee~~ *private professional guardian*  
42 *company* an administrative fine of not more than \$10,000 for each  
43 violation by the ~~licensee~~ *private professional guardian company*  
44 of any provision of this chapter or any regulation adopted pursuant  
45 thereto.





1 (c) If a fine is imposed pursuant to this section, enter such order  
2 as is necessary to recover the costs of the proceeding, including  
3 investigative costs and attorney's fees.

4 3. The grounds for revocation or suspension of a license are  
5 that:

6 (a) The ~~{licensee}~~ *private professional guardian company* has  
7 failed to pay the annual license fee;

8 (b) The ~~{licensee}~~ *private professional guardian company* has  
9 violated any provision of this chapter or any regulation adopted  
10 pursuant thereto or any lawful order of the Commissioner;

11 (c) The ~~{licensee}~~ *private professional guardian company* has  
12 failed to pay any applicable state or local tax as required;

13 (d) Any fact or condition exists which would have justified the  
14 Commissioner in denying the original application for a license  
15 pursuant to the provisions of this chapter; or

16 (e) The ~~{licensee}~~ *private professional guardian company*:

17 (1) Failed to open an office for the conduct of the business  
18 authorized by ~~{his or her}~~ *its* license within 180 days after the date  
19 the license was issued; or

20 (2) Has failed to remain open for the conduct of the business  
21 for a period of 30 consecutive days without good cause therefor.

22 4. An order suspending or revoking a license becomes effective  
23 5 days after being entered unless the order specifies otherwise or a  
24 stay is granted.

25 5. If the Commissioner enters an order suspending or revoking  
26 a license pursuant to this section, the Commissioner shall send a  
27 copy of the order to each district court in this State.

28 **Sec. 18.** NRS 628B.920 is hereby amended to read as follows:

29 628B.920 ~~{A person who}~~ *An entity that* does not have a  
30 license issued pursuant to this chapter shall not:

31 1. Use the term "private professional guardian" or  
32 "guardianship services" as a part of ~~{his or her}~~ *its* business name.

33 2. Advertise or use any sign which includes the term "private  
34 professional guardian."

35 **Sec. 19.** NRS 628B.930 is hereby amended to read as follows:

36 628B.930 1. The Commissioner shall conduct an  
37 investigation if he or she receives a verified complaint that an  
38 unlicensed ~~{person}~~ *entity* is engaging in an activity for which a  
39 license is required pursuant to this chapter.

40 2. If the Commissioner determines that an unlicensed ~~{person}~~  
41 *entity* is engaged in an activity for which a license is required  
42 pursuant to this chapter, the Commissioner shall:

43 (a) Issue and serve on the ~~{person}~~ *entity* an order to cease and  
44 desist from engaging in the activity until such time as the ~~{person}~~  
45 *entity* obtains a license issued by the Commissioner; and



1 (b) Send a copy of the order to each district court in this State.

2 3. If ~~{a person}~~ *an entity* upon ~~{whom}~~ *which* an order to cease  
3 and desist is served pursuant to subsection 2 does not comply with  
4 the order within 30 days after the service of the order, the  
5 Commissioner shall, after providing to the ~~{person}~~ *entity* notice and  
6 an opportunity for a hearing:

7 (a) Impose upon the ~~{person}~~ *entity* an administrative fine of  
8 \$10,000; or

9 (b) Enter into a written agreement with the ~~{person}~~ *entity*  
10 pursuant to which the ~~{person}~~ *entity* agrees to cease and desist from  
11 engaging in any activity in this State for which a license is required  
12 relating to the business of a private professional guardian and  
13 impose upon the ~~{person}~~ *entity* an administrative fine of not less  
14 than \$5,000 and not more than \$10,000.

15 4. The Commissioner shall bring suit in the name and on behalf  
16 of the State of Nevada against ~~{a person}~~ *an entity* upon ~~{whom}~~  
17 *which* an administrative fine is imposed pursuant to subsection 3 to  
18 recover the amount of the administrative fine if:

19 (a) No petition for judicial review is filed pursuant to NRS  
20 233B.130 and the fine remains unpaid for at least 90 days after  
21 notice of the imposition of the fine; or

22 (b) A petition for judicial review is filed pursuant to NRS  
23 233B.130 and the fine remains unpaid for at least 90 days after the  
24 exhaustion of any right of appeal in the courts of this State resulting  
25 in a final determination that upholds the imposition of the fine.

26 5. ~~{A person's}~~ *Any* liability for an administrative fine is in  
27 addition to any other penalty provided for in this chapter.

28 **Sec. 20.** NRS 628B.940 is hereby amended to read as follows:

29 628B.940 1. If the Commissioner has reasonable cause to  
30 believe that any person is violating or is threatening to or intends to  
31 violate any provision of this chapter, the Commissioner may, in  
32 addition to any action provided for in this chapter and chapter 233B  
33 of NRS and without prejudice thereto, enter an order requiring the  
34 person to cease and desist or to refrain from such violation. If  
35 the Commissioner enters such an order pursuant to this subsection,  
36 the Commissioner shall send a copy of the order to each district  
37 court in this State.

38 2. The Commissioner may bring an action to enjoin a person  
39 from engaging in or continuing a violation or from doing any act or  
40 acts in furtherance thereof. In any such action, irreparable harm and  
41 lack of an adequate remedy at law will be presumed and an order or  
42 judgment may be entered awarding a preliminary or final injunction  
43 as may be deemed proper. The findings of the Commissioner shall  
44 be deemed to be prima facie evidence and sufficient grounds, in the



1 discretion of the court, for the issuance ex parte of a temporary  
2 restraining order.

3 3. In addition to all other means provided by law for the  
4 enforcement of a restraining order or injunction, the court in which  
5 an action is brought may impound, and appoint a receiver for, the  
6 property and business of ~~the person,~~ *a private professional*  
7 *guardian company*, including books, papers, documents and records  
8 pertaining thereto, or so much thereof as a court may deem  
9 reasonably necessary to prevent violations of this chapter through or  
10 by means of the use of property and business, whether such books,  
11 papers, documents and records are in the possession of the ~~person,~~  
12 *private professional guardian company*, a registered agent acting  
13 on behalf of the ~~person~~ *private professional guardian company* or  
14 any other person. If a receiver is appointed and qualified, the  
15 receiver has such powers and duties relating to the custody,  
16 collection, administration, winding up and liquidation of such  
17 property and business as may be conferred upon the receiver by the  
18 court.

19 4. If a receiver is appointed pursuant to subsection 3, the  
20 receiver shall remit to the owners, members or shareholders of the  
21 private professional guardian company any amount of equity of  
22 the private professional guardian company remaining after the  
23 discharge of the liabilities and payment of the normal, prudent and  
24 reasonable expenses of the receivership.

