

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



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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.

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.



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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 ~~+~~, *unless*
6 *otherwise ordered by the court.* Each guardianship account must be
7 maintained in an insured bank or credit union located in this State,
8 be held in a name which is sufficient to distinguish it from the
9 personal or general checking account of the ~~licensee~~ *private*
10 *professional guardian company* and be designated as a
11 guardianship account. Each guardianship account must at all times
12 account for all money received for the benefit of the ward and
13 account for all money dispersed for the benefit of the ward, and no
14 disbursement may be made from the account except as authorized
15 under chapter 159 of NRS or as 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



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

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

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

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

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

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

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

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

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

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

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

