

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; prohibiting a person from engaging in any activity relating to service as a private professional guardian without meeting the necessary requirements; revising provisions relating to an application for a license to engage in the business of a private professional guardian; replacing references to the term “case manager”; revising certain reporting requirements for private professional guardian companies; revising provisions relating to required fidelity bonds; removing the provision that exempts private professional guardians from the provisions of law concerning summary administration granted by a court; revising provisions relating to certain investigations by the Commissioner; and providing other matters properly relating thereto.



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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
12 certain other requirements. **Sections 1, 4-7, 12, 13 and 15-17** 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) each natural person who acts in any capacity within a private
22 professional guardian company to submit to the Commissioner, not less than once
23 every 5 years, a complete set of fingerprints and such written permission to enable
24 the Division to obtain a report from the FBI; and (2) the Division to maintain a
25 copy of all reports obtained from the FBI. **Section 3** also requires the
26 Commissioner to adopt regulations establishing the amount of any fee required to
27 obtain a report from the FBI.

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

37 Existing law requires the director or manager of a private professional guardian
38 company to require fidelity bonds in an amount of at least \$25,000 on certain
39 persons. (NRS 628B.540) **Section 14** of this bill requires a private professional
40 guardian company to require such bonds on each natural person who acts in any
41 capacity within the private professional guardian company.

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

51 **Section 8** of this bill provides that it is unlawful for any person who does not
52 meet the requirements necessary to serve as a private professional guardian to
53 engage in any activity relating to service as a private professional guardian. **Section**
54 **19** of this bill requires the Commissioner to conduct an investigation if he or she



55 receives a verified complaint that a person who does not meet the requirements
56 necessary to serve as a private professional guardian is engaging in any activity
57 relating to service as a private professional guardian.

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*

12 (b) ~~†A person who serves as a private professional guardian but~~
13 ~~who is exempt†~~ *Exempt* pursuant to NRS 159.0595 or 628B.110
14 from the requirement to have a license issued pursuant to chapter
15 628B of NRS.

16 3. The term does not include:

17 (a) A governmental agency.

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

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

21 159.0595 1. In order for a person to serve as a private
22 professional guardian, the person must be:

23 (a) ~~†Qualified to serve as a guardian pursuant to NRS 159.0613~~
24 ~~if the ward is an adult or NRS 159.061 if the ward is a minor; and~~

25 ~~—(b)†~~ A ~~†guardian†~~ *natural person* who ~~†has a license issued†~~ *is a*
26 *certified guardian and is employed by an entity that is licensed*
27 pursuant to chapter 628B of NRS ~~†or a certified guardian who†~~ ,
28 *unless the entity* is not required to have such a license pursuant to
29 subsection ~~†3-~~

30 ~~—2. In order for an entity to serve as a private professional~~
31 ~~guardian, the† 2; or~~

32 (b) *An entity* ~~†must:~~

33 ~~—(a) Be† that:~~

34 (1) *Is* qualified to serve as a guardian pursuant to NRS
35 159.0613 if the ward is an adult;

36 ~~†(b) Have†~~



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

4 ~~[(e) Have]~~

5 (3) *Has* a *private professional* guardian who ~~has a license~~
6 ~~issued pursuant to chapter 628B of NRS or a certified guardian who~~
7 ~~is not required to have such a license pursuant to subsection 3]~~
8 *meets the requirements set forth in paragraph (a)* involved in the
9 day-to-day operation or management of the entity.

10 ~~[3. In order for a person or]~~

11 2. *An* entity *that wishes* to serve as a private professional
12 guardian ~~[, the person or entity]~~ is not required to have a license
13 issued pursuant to chapter 628B of NRS if the ~~person or~~ entity is
14 exempt from the requirement to have such a license pursuant to
15 NRS 628B.110 . ~~and the person or entity:~~

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

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

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

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

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

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

24 ~~4.]~~ 3. As used in this section:

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

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

29 ~~[(e) “Person” means a natural person.]~~

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

32 1. *Each natural person who acts in any capacity within a*
33 *private professional guardian company shall, before acting in any*
34 *such capacity and not less than once every 5 years thereafter,*
35 *submit to the Commissioner a complete set of fingerprints and*
36 *written permission authorizing the Division to forward the*
37 *fingerprints to the Central Repository for Nevada Records of*
38 *Criminal History for submission to the Federal Bureau of*
39 *Investigation for its report.*

40 2. *The Division shall maintain a copy of all reports obtained*
41 *pursuant to this section.*

42 3. *The Commissioner shall adopt regulations establishing the*
43 *amount of any fee required to obtain a report pursuant to this*
44 *section. All money received by the Commissioner must be placed*



1 *in the Investigative Account for Financial Institutions created by*
2 *NRS 232.545.*

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

4 628B.010 The Legislature finds and declares that:

5 1. There exists in this State a need, in order to provide for the
6 protection of the public interest, to regulate ~~{persons}~~ *entities*
7 engaged in the business of private professional guardians ~~{}~~ *and*
8 *persons employed by such entities.*

9 2. ~~{Persons}~~ *Entities* engaging in the business of private
10 professional guardians must be licensed and regulated in such a
11 manner as to promote advantages and convenience for the public
12 while protecting the public interest.

13 3. It is the purpose of this chapter to bring under public
14 supervision ~~{persons who}~~ *entities that* are engaged in or ~~{who}~~
15 desire to engage in the business of a private professional guardian
16 and to ensure that there is established in this State an adequate,
17 efficient and competitive private professional guardian service
18 available to the courts and the public at large.

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

20 628B.030 “Business of a private professional guardian” means
21 the holding out by ~~{a person,}~~ *an entity*, through advertising,
22 solicitation or other means, that the ~~{person}~~ *entity or a person*
23 *employed by the entity* is available to act for compensation as a
24 private professional guardian.

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

26 628B.080 1. “Private professional guardian” has the meaning
27 ascribed to it in NRS 159.024.

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

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

33 628B.090 1. “Private professional guardian company” means
34 a ~~{natural person or}~~ business entity, including, without limitation, a
35 sole proprietorship, partnership, limited-liability company or
36 corporation, that is licensed pursuant to the provisions of this
37 chapter to engage in the business of a private professional guardian,
38 whether appointed by a court or hired by a private party.

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



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

2 628B.300 It is unlawful for any person to engage in *any*
3 *activity relating to service as a private professional guardian,*
4 *including, without limitation, engaging in* the business of a private
5 professional guardian ~~{without having a license issued by the~~
6 ~~Commissioner pursuant to this chapter.}~~ , *if the person does not*
7 *meet the requirements set forth in NRS 159.0595.*

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

9 628B.310 1. ~~{A person wishing}~~ *An applicant for a license*
10 to engage in the business of a private professional guardian in this
11 State must file with the Commissioner an application on a form
12 prescribed by the Commissioner, which must contain or be
13 accompanied by such information as is required.

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

18 3. The application must contain:

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

21 (b) The complete business and residence addresses of the
22 applicant.

23 (c) The character of the business sought to be carried on.

24 (d) The address of any location where business will be
25 transacted.

26 (e) In the case of a firm or partnership, the full name and
27 residence address of each member or partner and the manager.

28 (f) In the case of a corporation or voluntary association, the
29 name and residence address of each director and officer and the
30 manager.

31 (g) *The name and residence address of each person who will*
32 *be employed by the applicant as a private professional guardian*
33 *pursuant to paragraph (a) of subsection 1 of NRS 159.0595.*

34 (h) A statement by the applicant acknowledging that the
35 applicant is required to comply with the provisions of NRS
36 159.0595 if issued a license.

37 ~~{(h)}~~ (i) Any other information reasonably related to the
38 applicant's qualifications for the license which the Commissioner
39 determines to be necessary.

40 4. Each application for a license must have attached to it a
41 financial statement showing the assets, liabilities and net worth of
42 the applicant ~~{}~~ *and each person who will be employed by the*
43 *applicant as a private professional guardian pursuant to*
44 *paragraph (a) of subsection 1 of NRS 159.0595.*



1 5. In addition to any other requirements, each ~~applicant or~~
2 ~~member, partner, director, officer, manager or case manager of an~~
3 ~~applicant~~ *natural person who acts in any capacity within a private*
4 *professional guardian company* shall ~~submit to the Commissioner~~
5 ~~a complete set of fingerprints and written permission authorizing the~~
6 ~~Division to forward the fingerprints to the Central Repository for~~
7 ~~Nevada Records of Criminal History for submission to the Federal~~
8 ~~Bureau of Investigation for its report.~~ *, before acting in any such*
9 *capacity, comply with the provisions of section 3 of this act.*

10 6. If the applicant is a corporation or limited-liability company,
11 the articles of incorporation or articles of organization must contain:

12 (a) The name adopted by the private professional guardian
13 company, which must distinguish it from any other private
14 professional guardian company formed or incorporated in this State
15 or engaged in the business of a private professional guardian in this
16 State; and

17 (b) The purpose for which it is formed.

18 7. The Commissioner shall deem an application to be
19 withdrawn if the Commissioner has not received all information and
20 fees required to complete the application within 6 months after the
21 date the application is submitted to the Commissioner. If an
22 application is deemed to be withdrawn pursuant to this subsection or
23 if an applicant otherwise withdraws an application, the
24 Commissioner may not issue a license to the applicant unless the
25 applicant submits a new application and pays the required fees.

26 8. The Commissioner shall adopt regulations establishing the
27 amount of the fees required pursuant to this section, subject to the
28 following limitations:

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

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

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

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

37 628B.330 1. Within 90 days after the application for a license
38 is filed, the Commissioner shall investigate the facts of the
39 application and the other requirements of this chapter to determine:

40 (a) That each person who will serve as a sole proprietor, partner
41 of a partnership, member of a limited-liability company or director
42 or officer of a corporation, ~~and~~ any person acting in a managerial
43 ~~or case manager~~ capacity ~~;~~ *or in a capacity in which he or she is*
44 *authorized to make discretionary decisions on behalf of the*
45 *applicant and any person who will be employed by the applicant as*



1 *a private professional guardian pursuant to paragraph (a) of*
2 *subsection 1 of NRS 159.0595, as applicable:*

3 (1) Has a good reputation for honesty, trustworthiness and
4 integrity and displays competence to engage in the business of a
5 private professional guardian in a manner which safeguards the
6 interests of the general public. The applicant must submit
7 satisfactory proof of those qualifications, including, without
8 limitation, evidence that the applicant has passed an examination for
9 private professional guardians specified by the Commissioner.

10 (2) Has not been convicted of, or entered a plea of guilty or
11 nolo contendere to, a felony or any crime involving fraud,
12 misrepresentation, material omission, misappropriation, conversion
13 or moral turpitude.

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

16 (4) Has not been a sole proprietor or an officer or member of
17 the board of directors for an entity whose license issued pursuant to
18 the provisions of this chapter was suspended or revoked within the
19 10 years immediately preceding the date of the application if, in
20 the reasonable judgment of the Commissioner, there is evidence that
21 the sole proprietor, officer or member materially contributed to the
22 actions resulting in the suspension or revocation of the license.

23 (5) Has not been a sole proprietor or an officer or member of
24 the board of directors for an entity whose license as a private
25 professional guardian company which was issued by any other state,
26 district or territory of the United States or any foreign country was
27 suspended or revoked within the 10 years immediately preceding the
28 date of the application if, in the reasonable judgment of the
29 Commissioner, there is evidence that the sole proprietor, officer or
30 member materially contributed to the actions resulting in the
31 suspension or revocation of the license.

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

34 (b) That the financial status of each sole proprietor, partner,
35 member or director and officer of the corporation ~~and~~, *each*
36 *person acting in a managerial ~~for ease manager~~ capacity or in a*
37 *capacity in which he or she is authorized to make discretionary*
38 *decisions on behalf of the applicant and each person who will be*
39 *employed by the applicant as a private professional guardian*
40 *pursuant to paragraph (a) of subsection 1 of NRS 159.0595*
41 indicates fiscal responsibility consistent with his or her position.

42 (c) That the name of the proposed business complies with all
43 applicable statutes.



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

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

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

9 (b) Whether the proposed organizational and equity structure
10 and the amount of initial equity or fidelity and surety bonds of the
11 applicant appear adequate in relation to the proposed business and
12 markets, including, without limitation, the average level of assets
13 under guardianship projected for each of the first 3 years of
14 operation; and

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

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

20 628B.380 1. A license issued pursuant to this chapter is not
21 transferable or assignable, but upon the approval of the
22 Commissioner and any applicable court of jurisdiction, a ~~licensee~~
23 *private professional guardian company* may merge or consolidate
24 with, or transfer its assets and control to, another ~~person who~~
25 *entity that* holds a license pursuant to this chapter. In determining
26 whether to grant the approval, the Commissioner may consider the
27 factors set forth in NRS 628B.330.

28 2. If a change in the control of a private professional guardian
29 company occurs, the chief executive officer or managing member of
30 the company shall report the change in control and the name of the
31 person obtaining control to the Commissioner within 5 business
32 days after obtaining knowledge of the change.

33 3. A private professional guardian company shall, within 5
34 business days after a change *occurs* in the chief executive officer,
35 managing member, ~~or~~ a majority of the directors or managing
36 directors of the company ~~occurs,~~ *or the employment of any*
37 *private professional guardian,* report the change to the
38 Commissioner. The company shall include in its report to the
39 Commissioner a statement of the past and current business and
40 professional affiliations of each new chief executive officer,
41 managing member, director, ~~or~~ managing director ~~or~~ *private*
42 *professional guardian.* A new chief executive officer, managing
43 member, director, ~~or~~ managing director *or private professional*
44 *guardian* shall furnish to the Commissioner a complete financial
45 statement on a form prescribed by the Commissioner.



1 4. A person who intends to acquire control of a private
2 professional guardian company shall submit an application to the
3 Commissioner. The application must be submitted on a form
4 prescribed by the Commissioner. The Commissioner shall conduct
5 an investigation pursuant to NRS 628B.330 to determine whether
6 the person has a good reputation for honesty, trustworthiness and
7 integrity and is competent to control the private professional
8 guardian company in a manner which protects the interests of the
9 general public.

10 5. The private professional guardian company of which the
11 applicant intends to acquire control shall pay the nonrefundable cost
12 of the investigation as required by the Commissioner. If the
13 Commissioner denies the application, the Commissioner may
14 prohibit or limit the applicant's participation in the business.

15 6. As used in this section, "control" means the possession,
16 directly or indirectly, of the authority to direct or cause the direction
17 of the management and policy of a private professional guardian
18 company, or a change in the ownership of at least 25 percent of the
19 outstanding voting stock of, or participating members' interest in,
20 the company.

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

22 628B.520 1. A private professional guardian company
23 licensed pursuant to this chapter shall maintain its principal office in
24 this State.

25 2. To qualify as the principal office for the purposes of
26 subsection 1, an office of the private professional guardian company
27 must:

28 (a) Have a verifiable physical location in this State at which the
29 private professional guardian company conducts such business
30 operations in this State as are necessary to administer private
31 professional guardianships in this State;

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

37 (c) Have any license issued pursuant to this chapter
38 conspicuously displayed;

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

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



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

4 (g) Comply with any other requirements specified by the
5 Commissioner.

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

7 628B.530 1. It is unlawful for any ~~person~~ *private*
8 *professional guardian company* licensed pursuant to this chapter to
9 engage in the business of a private professional guardian at any
10 office outside this State without the prior approval of the
11 Commissioner.

12 2. Before the Commissioner will approve a branch to be
13 located outside this State, the private professional guardian
14 *company* must:

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

17 (b) Provide proof satisfactory to the Commissioner that the
18 private professional guardian company has met all the requirements
19 to engage in the business of a private professional guardian in that
20 state pursuant to its laws, including, without limitation, written
21 documentation from the appropriate court or state agency that the
22 private professional guardian company is authorized to do business
23 in that state.

24 3. For each branch location of a private professional guardian
25 company organized under the laws of this State, and every branch
26 location in this State of a foreign private professional guardian
27 company authorized to do business in this State, a request for
28 approval and licensing must be filed with the Commissioner on
29 forms prescribed by the Commissioner. A nonrefundable fee of not
30 more than \$500, as provided by the Commissioner, must accompany
31 each request. In addition, a fee of not more than \$200, to be prorated
32 on the basis of the licensing year as provided by the Commissioner,
33 must be paid at the time of making the request. Money collected
34 pursuant to this section must be deposited in the Investigative
35 Account for Financial Institutions created by NRS 232.545.

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

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

41 628B.540 1. The Commissioner may require a private
42 professional guardian company to maintain equity, fidelity and
43 surety bonds in amounts that are more than the minimum required
44 initially or at any subsequent time based on the Commissioner's
45 assessment of the risks associated with the business plan of the



1 private professional guardian or other information contained in the
2 application, the Commissioner's investigation of the application or
3 any examination of or filing by the private professional guardian
4 company thereafter, including, without limitation, any examination
5 before the opening of the business. In making such a determination,
6 the Commissioner may consider, without limitation:

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

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

11 (c) The amount of fiduciary assets projected to be under the
12 management or administration of the private professional guardian
13 company;

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

16 (e) The complexity of the fiduciary duties and degree of
17 discretion proposed to be undertaken by the private professional
18 guardian company;

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

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

22 (h) The proposed presence of annual audits by an independent
23 certified public accountant, and the scope and frequency of such
24 audits, whether they result in an opinion of the accountant and any
25 qualifications to the opinion;

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

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

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

34 (l) The fulfillment by the private professional guardian company
35 of its representations and its descriptions of its business structures
36 and methods and management set forth in its application for a
37 license.

38 2. ~~{The director or manager of a}~~ A private professional
39 guardian company shall require fidelity bonds in the amount of at
40 least \$25,000 on ~~{the sole proprietor or each active officer, manager,
41 member acting in a managerial or case manager capacity and
42 employee.}~~ *each natural person who acts in any capacity within
43 the private professional guardian company* ~~{regardless of whether
44 the person receives a salary or other compensation from the private
45 professional guardian company.}~~ to indemnify the company against



1 loss due to any dishonest, fraudulent or criminal act or omission by
2 a person upon whom a bond is required pursuant to this section who
3 acts alone or in combination with any other person. A bond required
4 pursuant to this section may be in any form and may be paid for by
5 the private professional guardian company.

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

9 4. A private professional guardian company shall obtain
10 suitable surety bonds in accordance with NRS 159.065, as
11 applicable.

12 5. The surety bond obtained pursuant to subsection 4 must be
13 in a form approved by a court of competent jurisdiction and the
14 Division and conditioned that the applicant conduct his or her
15 business in accordance with the requirements of this chapter. The
16 bond must be made and executed by the principal and a surety
17 company authorized to write bonds in this State.

18 6. A private professional guardian company shall at least
19 annually prescribe the amount or penal sum of the bonds or policies
20 of the company and designate the sureties and underwriters thereof,
21 after considering all known elements and factors constituting a risk
22 or hazard. The action must be recorded in the minutes kept by the
23 private professional guardian company and reported to the
24 Commissioner.

25 7. The bond must cover all matters placed with the private
26 professional guardian company during the term of the license or a
27 renewal thereof.

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

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

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

33 628B.550 1. The fiduciary relationship which exists between
34 a private professional guardian and the ward of the private
35 professional guardian may not be used for the private gain of the
36 guardian other than the remuneration for fees and expenses. A
37 private professional guardian may not incur any obligation on behalf
38 of the guardianship that conflicts with the discharge of the duties of
39 the private professional guardian.

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

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

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



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

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

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

16 4. A court shall not appoint a private professional guardian that
17 ~~is~~ **does** not ~~licensed pursuant to this chapter~~ **meet the**
18 **requirements set forth in NRS 159.0595** as the guardian of a person
19 or estate. The court must review each guardianship involving a
20 private professional guardian on the anniversary date of the
21 appointment of the private professional guardian. If a private
22 professional guardian does not ~~hold a current license~~ **meet the**
23 **requirements set forth in NRS 159.0595**, the court must replace the
24 guardian until such time as the private professional guardian
25 ~~obtains the necessary license~~ **meets such requirements**.

26 5. ~~The provisions of NRS 159.076 regarding summary~~
27 ~~administration do not apply to a private professional guardian.~~
28 ~~6. A licensee~~ **A private professional guardian** shall file any
29 report required by the court in a timely manner.

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

31 628B.560 1. Except as otherwise provided in NRS 159.076, a
32 ~~licensee~~ **private professional guardian company** shall maintain a
33 separate guardianship account for each ward into which all money
34 received for the benefit of the ward must be deposited ~~it~~ **,** **unless**
35 **otherwise ordered by the court for a substantiated reason**. Each
36 guardianship account must be maintained in an insured bank or
37 credit union located in this State, be held in a name which is
38 sufficient to distinguish it from the personal or general checking
39 account of the ~~licensee~~ **private professional guardian company**
40 and be designated as a guardianship account. Each guardianship
41 account must at all times account for all money received for the
42 benefit of the ward and account for all money dispersed for the
43 benefit of the ward, and no disbursement may be made from the
44 account except as authorized under chapter 159 of NRS or as
45 authorized by court order.



1 2. Each ~~licensee~~ *private professional guardian company*
2 shall keep a record of all money deposited in each guardianship
3 account maintained for a ward, which must clearly indicate the date
4 and from whom the money was received, the date the money was
5 deposited, the dates of withdrawals of money and other pertinent
6 information concerning the transactions. Records kept pursuant to
7 this subsection must be maintained for at least 6 years after the
8 completion of the last transaction concerning the account. The
9 records must be maintained at the premises in this State at which the
10 ~~licensee~~ *private professional guardian company* is authorized to
11 conduct business.

12 3. The Commissioner or his or her designee may conduct an
13 examination of the guardianship accounts and records relating to
14 wards of each private professional guardian company licensed
15 pursuant to this chapter at any time to ensure compliance with the
16 provisions of this chapter.

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

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

25 6. Each ~~licensee~~ *private professional guardian company*
26 shall authorize the Commissioner or his or her designee to examine
27 all books, records, papers and effects of the private professional
28 guardian company.

29 7. If the Commissioner determines that the records of a
30 ~~licensee~~ *private professional guardian company* are not
31 maintained in accordance with subsections 1 and 2, the
32 Commissioner may require the ~~licensee~~ *private professional*
33 *guardian company* to submit, within 60 days, an audited financial
34 statement prepared from the records of the ~~licensee~~ *private*
35 *professional guardian company* by a certified public accountant
36 who holds a certificate to engage in the practice of public
37 accounting in this State. The Commissioner may grant a reasonable
38 extension of time for the submission of the financial statement if an
39 extension is requested before the statement is due.

40 8. Upon the request of the Division, a ~~licensee~~ *private*
41 *professional guardian company* must provide to the Division
42 copies of any documents reviewed during an examination conducted
43 by the Commissioner or his or her designee pursuant to subsection
44 4, 5 or 6. If the copies are not provided, the Commissioner may
45 subpoena the documents.



1 9. For each examination of the books, papers, records and
2 effects of a private professional guardian company that is required
3 or authorized pursuant to this chapter, the Commissioner shall
4 charge and collect from the private professional guardian company a
5 fee for conducting the examination and preparing a report of the
6 examination based upon the rate established by regulation pursuant
7 to NRS 658.101. Failure to pay the fee within 30 days after receipt
8 of the bill is grounds for revoking the license of the private
9 professional guardian company.

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

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

13 628B.730 1. If the Commissioner has reason to believe that
14 grounds for the revocation or suspension of a license exist,
15 the Commissioner shall give at least 20 days' written notice to the
16 ~~licensee~~ *private professional guardian company* stating the
17 contemplated action and, in general, the grounds therefor and set a
18 date for a hearing.

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

20 (a) Enter a written order dismissing the charges, revoking the
21 license or suspending the license for a period of not more than 60
22 days, which period must include any prior temporary suspension.
23 The Commissioner shall send a copy of the order to the ~~licensee~~
24 *private professional guardian company* by registered or certified
25 mail.

26 (b) Impose upon the ~~licensee~~ *private professional guardian*
27 *company* an administrative fine of not more than \$10,000 for each
28 violation by the ~~licensee~~ *private professional guardian company*
29 of any provision of this chapter or any regulation adopted pursuant
30 thereto.

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

34 3. The grounds for revocation or suspension of a license are
35 that:

36 (a) The ~~licensee~~ *private professional guardian company* has
37 failed to pay the annual license fee;

38 (b) The ~~licensee~~ *private professional guardian company* has
39 violated any provision of this chapter or any regulation adopted
40 pursuant thereto or any lawful order of the Commissioner;

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

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



1 (e) The ~~Licensee;~~ *private professional guardian company:*

2 (1) Failed to open an office for the conduct of the business
3 authorized by ~~this or her~~ *its* license within 180 days after the date
4 the license was issued; or

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

7 4. An order suspending or revoking a license becomes effective
8 5 days after being entered unless the order specifies otherwise or a
9 stay is granted.

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

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

14 628B.920 A person who does not have a license issued
15 pursuant to this chapter shall not:

16 1. Use the term “private professional guardian” or
17 “guardianship services” as a part of ~~this or her~~ *the person’s*
18 business name.

19 2. Advertise or use any sign which includes the term “private
20 professional guardian.”

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

22 628B.930 1. The Commissioner shall conduct an
23 investigation if he or she receives a verified complaint that ~~an~~
24 ~~unlicensed~~ *a person who does not meet the requirements set forth*
25 *in NRS 159.0595* is engaging in ~~an~~ *any* activity ~~for which a~~
26 ~~license is required pursuant to this chapter.~~ *relating to service as a*
27 *private professional guardian.*

28 2. If the Commissioner determines that ~~an unlicensed~~ *a*
29 *person who does not meet the requirements set forth in NRS*
30 *159.0595* is engaged in ~~an~~ *any* activity ~~for which a license is~~
31 ~~required pursuant to this chapter.~~ *relating to service as a private*
32 *professional guardian,* the Commissioner shall:

33 (a) Issue and serve on the person an order to cease and desist
34 from engaging in the activity until such time as the person ~~obtains a~~
35 ~~license issued by the Commissioner;~~ *meets the requirements set*
36 *forth in NRS 159.0595;* and

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

38 3. If a person upon whom an order to cease and desist is served
39 pursuant to subsection 2 does not comply with the order within 30
40 days after the service of the order, the Commissioner shall, after
41 providing to the person notice and an opportunity for a hearing:

42 (a) Impose upon the person an administrative fine of \$10,000; or

43 (b) Enter into a written agreement with the person pursuant to
44 which the person agrees to cease and desist from engaging in any
45 activity in this State ~~for which a license is required~~ relating to ~~the~~



1 ~~business of~~ *service as* a private professional guardian and impose
2 upon the person an administrative fine of not less than \$5,000 and
3 not more than \$10,000.

4 4. The Commissioner shall bring suit in the name and on behalf
5 of the State of Nevada against a person upon whom an
6 administrative fine is imposed pursuant to subsection 3 to recover
7 the amount of the administrative fine if:

8 (a) No petition for judicial review is filed pursuant to NRS
9 233B.130 and the fine remains unpaid for at least 90 days after
10 notice of the imposition of the fine; or

11 (b) A petition for judicial review is filed pursuant to NRS
12 233B.130 and the fine remains unpaid for at least 90 days after the
13 exhaustion of any right of appeal in the courts of this State resulting
14 in a final determination that upholds the imposition of the fine.

15 5. A person's liability for an administrative fine is in addition
16 to any other penalty provided for in this chapter.

17 **Sec. 20.** (Deleted by amendment.)

