

LCB File No. R148-99

**NOTICE OF WORKSHOPS TO SOLICIT COMMENTS
ON PROPOSED REGULATIONS**

September 21, 1999

The Department of Business and Industry, Division of Insurance (Division) is proposing new regulations pertaining to the calculation of reserves for term life insurance (Triple X), provider sponsored organizations (PSOs), motor clubs, insurance for rental cars, insurance for home protection, and amendments to chapter 683A of NAC concerning the licensing of agents and administrators. A workshop has been set for 10:00 a.m., on October 27, 1999, at the offices of the Division, 1665 Hot Springs Road, Suite 152, Carson City, Nevada. The purpose of the workshop is to solicit comments from interested persons on the following general topics addressed in the proposed regulations.

- 1. New regulations for the calculation of reserves for term life insurance, rules for a minimum standard for the valuation of plans, and tables of select mortality factors and rules for their use. This regulation is also known as Triple X.**
- 2. New regulations for provider sponsored organizations (PSOs) to establish the requirements necessary for a PSO to operate in the state of Nevada and offer the Medicare+Choice program (Medicare Part C).**
- 3. New regulations affecting property and casualty insurance, including a definition of emergency for insurance for home protection, standards for insurance on vehicles leased for the short term (rental cars), standards applicable to motor clubs, fees charged for the renewal of policies, and an amendment to the requirements for licensing of title agents and escrow officers.**
- 4. Amendments to regulations for chapter 683A of NAC concerning the licensing of agents and administrators, the recovery fund, continuing education, limited licenses, and agents for utilization review.**

A copy of this notice and the proposed regulations will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours.

Additional copies of the notice and the proposed regulations will be available at the offices of the Division, 1665 Hot Springs Road, Suite 152, Carson City, Nevada 89706, and 2501 East Sahara Avenue, Suite 302, Las Vegas, Nevada 89104, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at

<http://www.leg.state.nv.us>. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

This Notice of Workshop to Solicit Comments on Proposed Regulations has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations:

Department of Business and Industry
Division of Insurance
1665 Hot Springs Road, Suite 152
Carson City, NV 89706

Department of Business and Industry
Division of Insurance
2501 East Sahara Avenue, Suite 302
Las Vegas, NV 89104

Legislative Counsel Bureau
Capitol Complex
Carson City, NV 89710

Blasdel Building
Capitol Complex
Carson City, NV 89710

State Capitol
Capitol Complex
Carson City, NV 89710

Capitol Press Room
State Capitol Basement
Carson City, NV 89710

County Clerk
Courthouse
Carson City, NV 89710

Nevada State Library & Archives
Capitol Complex
Carson City, NV 89710

Carson City Library
900 North Roop Street
Carson City, NV 89701

Churchill County Library
553 South Maine Street
Fallon, NV 89406

Las Vegas Library
833 Las Vegas Blvd. North
Las Vegas, NV 89101

Douglas County Library
1625 Library Lane
P.O. Box 337
Minden, NV 89423

Elko County Library
720 Court Street
Elko, NV 89801

Goldfield Public Library
Fourth & Cook Street
P.O. Box 430
Goldfield, NV 89013

Eureka Branch Library
10190 Monroe Street
P.O. Box 293
Eureka, NV 89316

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445

Battle Mountain Branch Library

Lincoln County Library

P.O. Box 141
Battle Mountain, NV 89820

93 Main Street
P.O. Box 330
Pioche, NV 89043

Lyon County Library
20 Nevin Way
Yerington, NV 89447

Mineral County Library
First & A Street
P.O. Box 1390
Hawthorne, NV 89415

Tonopah Public Library
171 Central Street
P.O. Box 449
Tonopah, NV 89049

Pershing County Library
1125 Central Avenue
P.O. Box 781
Lovelock, NV 89419

Storey County Library
95 South R Street
P.O. Box 14
Virginia City, NV 89440

Washoe County Library
301 South Center Street
P.O. Box 2151
Reno, NV 89505

White Pine County Library
950 Campton Street
Ely, NV 89301

Clark County Library
1401 East Flamingo Road
Las Vegas, NV 89119

Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify the Commissioner's secretary in writing at 1665 Hot Springs Road, Suite 152, Carson City, Nevada 89706, or by calling no later than 5 working days prior to the hearing, (702) 687-4270.

DATED this _____ day of _____, 1999.

ALICE A. MOLASKY-ARMAN
Commissioner of Insurance

NOTICE OF INTENT TO ACT UPON REGULATIONS

Notice of Hearing for the Adoption of Regulations
of the Department of Business and Industry, Division of Insurance

The Department of Business and Industry, Division of Insurance (Division) will hold a public hearing at 10:00 a.m., on October 27, 1999, immediately following a public workshop, at the offices of the Division, 1665 Hot Springs Road, Suite 152, Carson City, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations pertaining to Provider Sponsored Organizations (PSOs).

REGULATIONS FOR PROVIDER SPONSORED ORGANIZATIONS (PSOs)

The following information is provided pursuant to the requirements of NRS 233B.060:

1. The proposed regulation is needed to respond to the federal standards which allow for the operation of provider sponsored organizations within the new Medicare+Choice program.
2. The proposed regulation establishes the requirements for a provider sponsored organization to obtain a certificate of authority to operate in Nevada.
3. Estimated economic effect of the regulation:
On the business which it is to regulate:
The proposed regulation should have little impact on the industry.
On the public:
The proposed regulation should have no economic impact on the public.
4. The Division expects to incur some additional expense to enforce the proposed regulation. This impact cannot be measured as the level of activity for provider sponsored organizations is unknown at this time.
5. The proposed regulation overlaps with federal laws and regulations in that it provides for Nevada's licensing of providers under the federal Medicare program (Part C). This overlap is in sections 1851 to 1859 of the Social Security Act, 42 U.S.C. par. 1395w-21. The overlap is necessary to coordinate the Division's regulatory oversight of provider sponsored organizations with the federal Health Care Financing Administration.
6. The proposed regulation is not more stringent than the federal regulations.
7. The proposed regulation does not establish any new fees or increase an existing fee.

Persons wishing to comment upon the proposed action of the Division may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Division, 1665 Hot Springs Road, Suite 152, Carson City, Nevada 89706. Written submissions must be received by the Division on or before October 21, 1999. If no person who is

directly affected by the proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions.

A copy of this notice and the proposed regulation will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be amended will be available at the offices of the Division, 1665 Hot Springs Road, Suite 152, Carson City, Nevada 89706, and 2501 East Sahara Avenue, Suite 302, Las Vegas, Nevada 89104, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

Department of Business and Industry
Division of Insurance
1665 Hot Springs Road, Suite 152
Carson City, NV 89706

Department of Business and Industry
Division of Insurance
2501 East Sahara Avenue, Suite 302
Las Vegas, NV 89104

Legislative Counsel Bureau
Capitol Complex
Carson City, NV 89710

Blasdel Building
Capitol Complex
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State Capitol
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Humboldt County Library
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Winnemucca, NV 89445

Battle Mountain Branch Library
P.O. Box 141
Battle Mountain, NV 89820

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93 Main Street
P.O. Box 330
Pioche, NV 89043

Lyon County Library
20 Nevin Way
Yerington, NV 89447

Mineral County Library
First & A Street
P.O. Box 1390
Hawthorne, NV 89415

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P.O. Box 2151
Reno, NV 89505

White Pine County Library
950 Campton Street
Ely, NV 89301

Clark County Library
1401 East Flamingo Road
Las Vegas, NV 89119

Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify the Commissioner's secretary in writing at 1665 Hot Springs

Road, Suite 152, Carson City, Nevada 89706, or by calling no later than 5 working days prior to the hearing, (702) 687-4270.

DATED this _____ day of _____, 19_____.

ALICE A. MOLASKY-ARMAN
Commissioner of Insurance

LCB File No. R148-99

**PROPOSED REGULATION OF THE DIVISION OF INSURANCE
OF THE DEPARTMENT OF BUSINESS AND INSURANCE**

REGULATION CONCERNING PROVIDER SPONSORED ORGANIZATIONS

Authority: NRS 679B.130, and AB 680 (1999) Section 59, which amends NRS 695C.

Section 1. Chapter 695C of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive of this regulation.

Sec. 2. *“Medicare + Choice plan” means a plan of health insurance established pursuant to the program set forth in sections 1851 to 1859, inclusive, of the Social Security Act, 42 U. S. C. §§ 1395w-21 to -28, inclusive.*

Sec. 3. *“Provider Sponsored Organization” means an entity that satisfies all the requirements set forth in 42 U. S. C. §§ 1395w-25(d) and the federal regulations adopted pursuant thereto.*

Sec. 4. *1. To offer a Medicare + Choice plan in this state, a provider-sponsored organization must obtain a certificate of authority to operate as an organization pursuant to chapter 695C of NRS and the regulations adopted pursuant thereto.*

2. A provider-sponsored organization shall not offer health insurance or other benefits for health care services in this state except through a Medicare + Choice plan unless licensed to provide such services.

Sec. 5. *1. A provider sponsored organization shall obtain a contract of insurance for the cost of providing a Medicare + Choice plan which exceeds, per enrollee, in an amount to be determined by the commissioner.*

2. The contract of insurance may have an aggregate limit in an amount to be determined by the commissioner. Subject to that aggregate limit, the contract of insurance must:

(a) Include a provision which states that, in case of the insolvency of the provider-sponsored organization, the insurer will pay all claims made by an enrollee for the period during which a premium was paid to the provider-sponsored organization.

(b) Specifically provide for:

(1) The continuation of benefits to enrollees for the period during which prepayments were made to the provider-sponsored organization;

(2) The continuation of benefits for enrollees confined in a medical facility or facility for the dependent at the time of the insolvency of the provider-sponsored organization until the enrollee is discharged from the facility; and

(3) The payment of a provider who is not affiliated with the provider-sponsored organization and who provided medically necessary services, as described in the evidence of coverage, to an enrollee during the time in which payments were made to the provider-sponsored organization.

3. A contract of insurance obtained by a provider-sponsored organization pursuant to this section must not be canceled unless the provider-sponsored organization and insurer provide the commissioner with written notice at least 90 days before cancellation.

Sec. 6. NAC 695C.060 is hereby amended to read as follows:

695C.060 “Organization” means a health maintenance organization~~[]~~ *or a provider sponsored organization.*

Sec. 7. NAC 695C.120 is hereby amended to read as follows:

695C.120 An application for a certificate of authority must be accompanied by all forms specifically required by chapter 695C of NRS and provided by the division and by:

1. All documents describing the financing and ownership of the organization, including financial statements and copies of any contracts made or to be made between any member of the governing board or committee, the officers of the corporation or partners of a partnership or association, or providers, and the proposed organization. The financial statements must depict a net worth of not less than \$1,500,000 *for health maintenance organizations*. All financial statements must be certified by an independent certified public accountant.

2. *For health maintenance organizations a* ~~[A]~~ surety bond or deposit of cash or securities for the protection of the enrollees in the amount of \$250,000 or more which is deposited with the commissioner. The bond must include a provision preventing cancellation except after written notice to the commissioner of not less than 90 days. An organization which has made a deposit of securities pursuant to this subsection may withdraw them if it makes an equivalent deposit of cash, securities or a combination of cash and securities acceptable to the commissioner.

3. *For health maintenance organizations a* ~~[A]~~ A blanket fidelity bond in an amount of not less than \$1,000,000 in the aggregate to cover every director, officer, partner and employee of the organization who may receive, collect, disburse or invest funds in connection with the activities of the organization.

4. A proposed plan of operation for the first 3 years of operation based on projected total income and projected total expenses. The amounts stated for the cost of medical services and the use of them in the proposed plan must be certified by a qualified actuary. The plan must project income and expected costs allocated to:

- (a) Coverage for emergencies or medically necessary services rendered outside of the organization's specified geographic area of service;
- (b) Per capita payments to primary physicians;
- (c) Fees to other providers of health care;
- (d) Supplemental benefits;
- (e) A contract of stop loss insurance;
- (f) Expenses of administration; and
- (g) Amortization of necessary costs for the establishment of the organization.

Sec. 8. NAC 695C.123 is hereby amended to read as follows:

695C.123 1. Any ~~health-maintenance~~ organization which holds a certificate of authority issued by the commissioner and is seeking qualification under 42 U.S.C. § 300e-9(d) shall submit to the division information concerning that qualification, including:

- (a) The date and time of the inspection to be conducted by the Federal Government;
 - (b) The name and address of the federal officer responsible for investigating the organization;
- and
- (c) A copy of any report by the Federal Government qualifying or denying the qualification of the organization.

2. Any organization which has been so qualified shall submit to the division a copy of any:

- (a) Notice of deficiency received from the Federal Government concerning its qualification; and
- (b) Report presented to the Federal Government to maintain its qualification.

3. Each organization shall file with the division, for informational purposes, any documents received from or sent to the Federal Government if those documents materially affect the operation and marketing of the organization in Nevada.

Sec. 9. NAC 695C.124 is hereby amended to read as follows:

695C.124 1. Any person wishing to review an application for issuance of a certificate of authority for ~~[a health maintenance]~~ *an* organization shall submit a request to the division in writing. The application may be reviewed at the offices of the division at 1665 Hot Springs Road, Carson City, Nevada, or a copy of the application may be requested. If a copy of the application is requested, money to reimburse the division for the cost of postage and of preparing the copy must be submitted with the request.

2. If any person wishes to be notified of a pending application or hearing concerning the denial of a certificate of authority, he must request in writing that he be placed on a list maintained by the division for this purpose.

Sec. 10. NAC 695C.125 is hereby amended to read as follows:

695C.125 1. The health division shall study each application for a certificate of authority to establish and operate ~~[a health maintenance]~~ *an* organization and give the state board of health the opinion whether or not the applicant has:

(a) Adequate arrangements in his organization to provide health care; and

(b) Adequate procedures established to develop, compile, evaluate and report statistical data concerning:

(1) The cost of its operations;

(2) The pattern of utilization, availability and accessibility of its services; and

(3) Such other matters as the board may reasonably require.

2. The health division shall present the results of the study, along with the application and other relevant documents, to the state board of health as soon as practicable.

3. The applicant may be represented at the meeting of the state board of health.

Sec. 11. NAC 695C.127 is hereby amended to read as follows:

695C.127 1. Any applicant for a certificate of authority who is licensed to operate ~~[a health maintenance]~~ *an* organization in another state or whose affiliate or subsidiary is so licensed shall include in its application a copy of that license and, if available, a certificate of good standing from that state's agency which regulates ~~[health maintenance]~~ organizations.

2. Any organization already authorized in Nevada who obtains a license as ~~[health maintenance]~~ *an* organization in another state or whose affiliate or subsidiary obtains such a license shall furnish a copy of that license to the commissioner within 30 days after receipt of the license.

3. An organization also licensed in another state shall notify the division of any disciplinary action taken by that state and file copies of all documents relating to that action with the division within 10 days after receipt of the documents by the organization.

Sec. 12. NAC 695C.129 is hereby amended to read as follows:

695C.129 1. Any person not entitled to a hearing pursuant to NRS 695C.340 who is aggrieved by an action of the commissioner in his approval, denial or revocation of a certificate of authority for ~~[a health maintenance]~~ *an* organization may request a hearing as provided in NRS 679B.310.

2. Any person who wants to intervene in any proceeding held pursuant to NRS 695C.340 may request that intervention as provided in NAC 679B.460, 679B.470 and 679B.480.

3. Any administrative proceeding under chapter 695C of NRS and this chapter will be held pursuant to the procedures in NAC 679B.161 to 679B.480, inclusive.

Sec. 13. NAC 695C.130 is hereby amended to read as follows:

695C.130 1. Except as otherwise provided in this section, ~~[an]~~ *a health maintenance* organization which receives a certificate of authority shall maintain and report on its financial

statement filed with the commissioner pursuant to NRS 695C.210 a minimum net worth in an amount:

(a) Equal to \$1,500,000; or

(b) Equal to 2 percent of the first \$150,000,000 earned as revenue from premiums collected in the preceding 12-month period, plus 1 percent of the amount in excess of \$150,000,000 earned as revenue from premiums collected in the preceding 12-month period, whichever is greater.

2. In addition to the requirements set forth in subsection 1, ~~an~~ *a health maintenance* organization which receives a certificate of authority shall maintain:

(a) A surety bond or deposit of cash or securities for the protection of enrollees of not less than \$250,000.

(b) A contract of stop loss insurance as required by NAC 695C.135 for new organizations.

(c) A blanket fidelity bond as required by NAC 695C.120 for new organizations.

(d) The operating, premium tax and insolvency reserves required for new organizations.

3. If the commissioner determines that the financial condition of an organization fails to comply with the conditions set forth in NRS 695C.090, he may require the organization to:

(a) Maintain a net worth that is greater than the amount required by subsection 1;

(b) Obtain a written guarantee from a business which has sufficient surplus and an adequate history of generating net income to guarantee the maintenance of the organization's minimum net worth required by subsection 1 and obtain approval of the written guarantee and guarantor from the commissioner; or

(c) Comply with paragraphs (a) and (b).

4. If an organization proposes to make a material modification to its approved plan of operations, it shall submit a copy of its proposed modification to the commissioner. The

commissioner may, as a condition of approval for the organization's proposed modification, require the organization to increase the amount of reserves, deposits, bonds or minimum net worth it is required to maintain. The commissioner may, in making such a determination, consider the conditions set forth in NRS 695C.090.

Sec. 14. NAC 695C.135 is hereby amended to read as follows:

695C.135 1. Each *health maintenance* organization shall obtain a contract of insurance for the cost of providing basic health care services which ~~exceed~~ *exceeds* in the aggregate:

- (a) For an organization in operation for 2 years or less, \$30,000 per enrollee per year;
- (b) For an organization in operation for more than 2 years which has a free surplus of \$2,000,000 or less, \$50,000 per enrollee per year;
- (c) For an organization in operation for more than 2 years which has a free surplus of more than \$2,000,000, \$100,000 per enrollee per year;
- (d) For an organization in operation for more than 3 years which has a free surplus of more than \$4,000,000, \$150,000 per enrollee per year; and
- (e) For an organization in operation for more than 5 years which has a free surplus of more than \$8,000,000, \$200,000 per enrollee per year.

2. The contract of insurance must include a provision that, in the case of the insolvency of the *health maintenance* organization, the insurer will pay all claims made by an enrollee for the period for which a premium has been paid to the organization. The contract may have an aggregate limit of \$5,000,000 but must specifically provide for the:

- (a) Continuation of benefits to enrollees for the period for which the subscribers have made prepayments to the organization;

(b) Continuation of benefits for those enrollees confined in a medical facility or facility for the dependent at the time of the insolvency of the organization until the enrollee is discharged from the facility; and

(c) Payment of a provider not affiliated with the organization who provided medically necessary services, as described in the evidence of coverage, to an enrollee.

3. Any contract of insurance obtained by ~~an~~ a *health maintenance* organization under this section may be canceled only after 90 days' written notice of the cancellation is given to the division by the organization and its insurer.

4. As used in this section:

(a) "Basic health care services" includes hospitalization but excludes any benefits under an optional plan for dental, vision or pharmaceutical benefits.

(b) "Free surplus" means the sum held by the organization in assets and investments authorized by chapter 695C of NRS as its surplus and for its uncovered expenditures.

Sec. 15. NAC 695C.137 is hereby amended to read as follows:

695C.137 1. Each *health maintenance* organization shall retain as reserves an amount:

(a) Equal to the premium taxes owed pursuant to chapter 680B of NRS; and

(b) After the first year of operation, as a protection against insolvency, equal to twice its actual average monthly uncovered expenditures for the previous year of operation or \$500,000, whichever is greater.

2. Payments for premium taxes may be made from the account maintained for reserves.

3. Except as otherwise provided in subsection 2, no *health maintenance* organization may reduce the reserves for protection against insolvency unless it notifies the commissioner in writing

and receives his written approval of the reduction. Any unauthorized reduction in this reserve creates a presumption that the organization is in an unsound financial condition.

4. All reserves maintained by ~~an~~ *a health maintenance* organization pursuant to this section:

(a) Must be deposited in a trust account in a federally insured financial institution located in Nevada. All income earned by the account belongs to the organization and may be credited and paid to the organization and used for its operations.

(b) Are in addition to those reserves established by the organization according to good business and accounting practices for incurred but not reported claims and other similar claims.

Sec. 16. NAC 695C.200 is hereby amended to read as follows:

695C.200 1. Each applicant for a certificate of authority shall:

(a) Submit a list of the providers in its health care plan and a description of the type of providers based upon a projected number of enrollees;

(b) Sufficiently describe its list of providers to demonstrate the accessibility and availability of health care to its enrollees; and

(c) Describe a plan for increasing the number of providers based upon increased enrollment.

2. The health maintenance organization shall notify:

(a) The division and the state board of health in writing at the end of each quarter of each calendar year of any changes in its list of providers; and

(b) An enrollee in writing of the disassociation of his primary physician from the organization not later than 30 working days after such disassociation.

3. Based upon the current list of providers of an organization, an overall reduction of more than 30 percent in the number of primary physicians in a geographic area of service or a material change in the panel of specialists, shall be deemed by the division to jeopardize the ability of the

organization to meet its obligations to its enrollees, and the division will so notify the state board of health and the organization. The organization may rebut this presumption by providing written information to the division within 14 days after the notice is sent to the state board of health and the organization.

4. The provisions of subsection 3 do not apply if the organization:

(a) Notifies the division in writing;

(b) Submits information concerning the number of persons enrolled in the organization and the reasons for any reductions; and

(c) Obtains the approval of the division in advance for the reduction.

Sec. 16. NAC 695C.310 is hereby amended to read as follows:

695C.310 Review of examination of organization required; approved examiners; organization to cooperate during examination.

1. As part of the examination of the quality of health care services required pursuant to NRS 695C.310, the state board of health will review or cause the health division to review and report the results of an examination of the organization conducted by:

(a) The Federal Government for federal qualification as a health maintenance organization;

(b) The Federal Government for federal qualification as a provider sponsored organization;

~~(b)~~ (c) A group which is nationally recognized to provide accreditation of health maintenance organizations; or

~~(e)~~ (d) A person approved by the board pursuant to subsection 2.

2. The state board of health shall maintain a list of not less than two persons whom the board has approved to assist the board in conducting the examination of an organization.

3. During an examination, the organization shall provide such information as the board or health division deems necessary and shall allow the board or the health division to review any relevant books, records and operations necessary at the place of business of the organization.