PROPOSED REGULATION OF THE

COMMISSIONER OF INSURANCE

LCB File No. R248-03

January 29, 2004

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

AUTHORITY: §1, NRS 679B.130, 695C.070, 695C.270 and 695C.275; §§2-5, NRS 679B.130 and 695C.275; §6, NRS 439.200, 679B.130, 695C.080, 695C.210 and 695C.275.

Section 1. 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 a health maintenance organization. All financial statements must be certified by an independent certified public accountant.

2. For a health maintenance organization, a surety bond or deposit of cash or securities to secure the debts of the health maintenance organization and 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. A health maintenance 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 a health maintenance organization, ~~[a]~~ blanket fidelity ~~[bond]~~ ***coverage*** in an amount of not less than $1,000,000 in the aggregate to cover every director, officer, partner and employee of the health maintenance organization who may receive, collect, disburse or invest funds in connection with the activities of the health maintenance 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 specified geographic area of service of the organization;

(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. 2. 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 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,]~~ ***788 Fairview Drive, Suite 300,*** Carson City, Nevada ~~[,]~~ ***89701-5491,*** 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. 3. NAC 695C.130 is hereby amended to read as follows:

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

(c) ~~[A blanket fidelity bond]~~ ***Blanket fidelity coverage*** as required by NAC 695C.120 for new health maintenance organizations.

(d) The operating ~~[, premium tax]~~ and insolvency reserves required for new health maintenance organizations.

3. If the Commissioner determines that the financial condition of a health maintenance 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 minimum net worth of the health maintenance organization 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 a health maintenance 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 proposed modification by the health maintenance organization, require the health maintenance 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. 4. 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 in the aggregate:

(a) For a health maintenance organization in operation for 2 years or less, $30,000 per enrollee per year;

(b) For a health maintenance 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 a health maintenance 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 a health maintenance 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 a health maintenance 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 health maintenance 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 health maintenance 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 health maintenance organization until the enrollee is discharged from the facility; and

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

3. Any contract of insurance obtained by a health maintenance organization under this section may be cancelled only after 90 days' written notice of the cancellation is given to the Division by the health maintenance 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 health maintenance organization in assets and investments authorized by chapter 695C of NRS as its surplus and for its uncovered expenditures.] ***total capital and surplus less any restricted funds, as reported on the National Association of Insurance Commissioners, form of annual statement.***

Sec. 5. NAC 695C.270 is hereby amended to read as follows:

695C.270 1. [Each organization shall file its] ***The*** annual report [on the form designated "Health Maintenance Organizations, Association Edition," by the National Association of Insurance Commissioners, as it existed on August 1, 1990. That form, which is hereby adopted by reference, may be obtained at a cost of $18 from Global Financial Press, 1845 Walnut Street, Philadelphia, Pennsylvania 19103, telephone: 215.977.7458. The organization shall follow the instructions accompanying that form.

2.] ***required to be filed by each organization pursuant to NRS 695C.210 must:***

(a) Be in the current form for annual statements for the type of organization reporting. These forms are hereby adopted by reference. Each organization filing the form shall follow the instructions adopted by the National Association of Insurance Commissioners for the type of annual report to be filed. These forms may be obtained from the National Association of Insurance Commissioners, Publications Department, 2301 McGee Street, Suite 800, Kansas City, Missouri 64108-2662, for the price of $200 each.

(b) Be filed:

(1) With the National Association of Insurance Commissioners in an electronic format; and

(2) On or before March 1 of each year.

2. If a foreign or alien health maintenance organization files a statement in an electronic format with the National Association of Insurance Commissioners, that statement will be deemed to have been filed with the Commissioner if:

(a) The foreign or alien health maintenance organization submits an affidavit or a copy of a jurat executed by a notarial officer pursuant to NRS 240.1655 and 240.167 to the Commissioner indicating that the statement has been so filed; and

(b) The affidavit or copy of the jurat is accompanied by the applicable fees set forth in NRS 680B.010.

3. Each organization shall include in its annual report the number and amount of claims of malpractice initiated against it during that year. The report must include claims made with or without legal process and the disposition, if any, of each claim.

~~[3.]~~ ***4.*** Each organization shall furnish a copy of any annual report it distributes to its enrollees to the Division 30 days before that distribution with a notice of its intent to distribute it.

~~[4.]~~ ***5.*** If an organization is required by federal law to submit quarterly reports to the ~~[Office of Health Maintenance Organizations,]~~ ***Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services,*** it shall submit copies of those reports to the Division.

~~[5. If deemed appropriate, the Commissioner will require that a financial statement be submitted to him more frequently than annually. If a]~~

6. If necessary to determine the financial condition, fulfillment of contractual obligations or compliance with law of a foreign or alien health maintenance organization, the Commissioner may require the foreign or alien health maintenance organization to file a financial statement more frequently than annually. Such a statement must be:

(a) Filed on the current form adopted by the National Association of Insurance Commissioners for the type of organization filing;

(b) Completed in accordance with the current instruction manual for the type of organization filing; and

(c) Filed with the National Association of Insurance Commissioners in an electronic format.

7. Each domestic health maintenance organization shall file a quarterly statement with the Commissioner. A quarterly statement [is required, it] must be:

(a) Filed on the [most] current form [for quarterly statements for an organization] adopted by the National Association of Insurance Commissioners [; and] ***for the type of organization filing;***

(b) Completed in accordance with the [instructions accompanying that form.

6.] ***current instruction manual for the type of organization filing; and***

(c) Filed with the National Association of Insurance Commissioners in an electronic format.

8. For a health maintenance organization, the ***audited*** financial statement of the organization filed pursuant to subsection 3 of NRS 695C.210 is a separate document from the annual statement required to be filed pursuant to paragraph (a) of subsection 2 of NRS 695C.210. For a provider-sponsored organization, the ***audited*** financial statement of the organization filed pursuant to subsection 3 of NAC 695C.360 is a separate document from the annual statement required to be filed pursuant to paragraph (a) of subsection 2 of NAC 695C.360. The ***audited*** financial statement filed pursuant to subsection 3 of NRS 695C.210 or subsection 3 of NAC 695C.360 must be [filed] ***:***

(a) Filed for each individual organization ~~[not later than 90]~~ ***within 120*** days after the end of its fiscal year ~~[.]~~ ***; and***

(b) Filed pursuant to the specifications and instructions adopted by the National Association of Insurance Commissioners which are included in the <u>Annual Statement Instructions</u> for the type of organization filing, which have been adopted by reference in NAC 679B.033.

➥ Consolidated statements for organizations that are members of an insurance holding company ***system*** are not acceptable.

~~[7.]~~ ***9.*** The Commissioner will, if appropriate, take disciplinary action pursuant to NRS 695C.340 or 695C.350 or NAC 695C.1286 or 695C.1288 against an organization which fails to file its financial statements on the prescribed forms, ***in the prescribed format*** or by the prescribed date.

10. The Commissioner will grant, for good cause and upon advance written request, an extension for filing a statement.

11. As used in this section, "jurat" means a declaration by a notarial officer that the signer of a document signed the document in the presence of the notarial officer and swore to or affirmed that the statements in the document are true.

Sec. 6. NAC 695C.275 is hereby amended to read as follows:

695C.275 1. Each health maintenance organization which receives a certificate of authority shall include in its annual report submitted to the Commissioner pursuant to NRS 695C.210 the quality and performance indicators selected for each calendar year by the State Board of Health. The Board will select the indicators from the reporting set data domains set forth in *Technical Specifications, Health Plan Employer Data and Information Set* (HEDIS),

volume 2, in the form most recently published by the National Committee for Quality Assurance ~~[,]~~ ***(NCQA),*** unless the Board gives notice that the most recent revision is not suitable for this state pursuant to subsection 2. Volume 2 of HEDIS may be obtained from the National Committee for Quality Assurance ~~[, Publications Center, P.O. Box 533, Annapolis Junction, Maryland 20701-0533,]~~ ***, NCQA, Attention: EPJ, 2000 L Street, N.W., Suite 500, Washington, DC 20036,*** for the price of ~~[$245,]~~ ***$260*** plus $14 for shipping and handling ~~[.]~~ ***or by ordering via telephone at 888.275.7585 or the Internet at <http://www.ncqa.org/publications>.***

2. The State Board of Health shall review each revision of the reporting set data domains ~~[adopted by reference pursuant to subsection 1]~~ ***set forth in Technical Specifications, Health Plan Employer Data and Information Set (HEDIS), volume 2,*** to ensure their suitability for this state. If the Board determines that a revision is not suitable for this state, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Board does not revise its determination, the Board will, within 30 days after the hearing, give notice that the revision is not suitable for this state. If the Board does not give such notice, the revision becomes part of the reporting set data domains adopted by reference pursuant to subsection 1.