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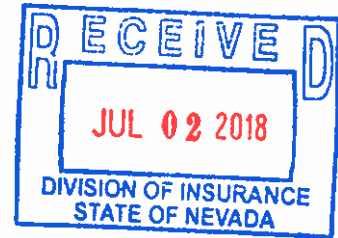
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June 26, 2018

Ms. Sue Bell
Legal Secretary
Commissioner of Insurance
1818 East College Parkway, Suite 103
Carson City, Nevada 89706



Re: LCB File No. R087-17

Dear Ms. Bell,

A regulation adopted by the Commissioner of Insurance has been filed today with the Secretary of State pursuant to NRS 233B.067 or 233B.0675 as appropriate. As provided in NRS 233B.070, this regulation becomes effective upon filing, unless otherwise indicated.

Enclosed are two copies of the regulation bearing the stamp of the Secretary of State which indicates that it has been filed. One copy is for your records and the other is for delivery to the State Library and Archives Administrator pursuant to subsection 6 of NRS 233B.070.

Sincerely,

A handwritten signature in blue ink that reads "Allan L. Amburn".

Allan L. Amburn
Deputy Legislative Counsel

R. Rene Yeckley
Senate Legal Counsel and Bill Drafting Advisor

Brenda J. Erdoes
Legislative Counsel

ALA/slj
Enclosure

SECRETARY OF STATE
FILING DATA

FILED, NV, SOS
2018 JUN 26 PM 1:31



**Form For Filing
Administrative Regulations**

Agency

Dept. of Business and Industry

Division of Insurance

R087-17

FOR EMERGENCY
REGULATIONS ONLY

Effective date _____

Expiration date _____

Governor's signature

Classification: PROPOSED ADOPTED BY AGENCY EMERGENCY

Brief description of action Regulation concerning Third-Party Administrators

Authority citation other than 233B §1, NRS 679B.130 and 683A.08522; §2, NRS 679B.130, 683A.08524 and 683A.0892;
§3, NRS 679B.130.

Notice date Dec. 13, 2017 and April 4, 2018

Date of Adoption by Agency June 8, 2018

Hearing date Jan. 22, 2018 and May 21, 2018

**APPROVED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R087-17

Effective June 26, 2018

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

AUTHORITY: §1, NRS 679B.130 and 683A.08522; §2, NRS 679B.130, 683A.08524 and 683A.0892; §3, NRS 679B.130.

A REGULATION relating to insurance; authorizing certain applicants for a certificate of registration as an administrator to submit the financial statement of the parent company of such an applicant; requiring the financial statements submitted by an applicant for a certificate of registration as an administrator to contain certain information; requiring an administrator to notify the Commissioner of Insurance of certain changes within 30 days after the change occurs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Commissioner of Insurance to adopt reasonable regulations for the administration of the Nevada Insurance Code or as required to ensure compliance by the Commissioner with any federal law or regulation relating to insurance. (NRS 679B.130)

Existing law requires each application for a certificate of registration as an administrator to include a financial statement that is certified by an officer of the applicant. The financial statement must include: (1) the amount of money the applicant expects to collect from or disburse to residents of this State during the next calendar year; (2) financial information for the 90 days immediately preceding the date the application was filed with the Commissioner; and (3) an income statement and balance sheet for the 2 years immediately preceding the application that are prepared in accordance with generally accepted accounting principles. (NRS 683A.08522) Existing regulations require each applicant for a certificate of registration as an administrator, if the applicant is a newly formed business, to submit a pro forma balance sheet and a statement listing estimated income and expenses for the first year. (NAC 683A.105) In lieu of submitting the financial statements and documents required pursuant to this existing law and existing regulation, **section 1** of this regulation authorizes an applicant for a certificate of registration as an administrator to submit the financial statement of the parent company of such an applicant if the financial statement of the parent company: (1) is certified both by an officer of the applicant

and by an officer of the parent company; (2) satisfies the requirements set forth in existing law for the financial statement of an applicant; and (3) has been audited by an independent certified public accountant. **Section 1** further requires an applicant who submits the financial statement of the parent company to: (1) be a wholly owned subsidiary of the parent company; and (2) provide a parental guaranty of performance for a period of not less than 1 year. **Section 2** of this regulation makes conforming changes.

Existing regulations require the financial statement of an administrator to include: (1) a balance sheet that reports the assets, liabilities and net worth of the administrator; (2) an income statement that reports the revenue and expenses of the administrator; (3) a statement of cash flow; and (4) notes to the financial statement. (NAC 683A.131) **Section 1** requires the financial statement of an applicant for a certificate of registration as an administrator or its parent company to include such information as it applies to the applicant.

Existing law requires each application for a certificate of registration as an administrator to include a notarized affidavit from each person who manages or controls the administrator, including members, directors or officers, that contains certain information. (NRS 683A.08522) Existing regulations require an administrator to notify the Commissioner of any change in its members, owners, directors or officers within 90 days after the change. (NAC 683A.125) **Section 3** of this regulation requires an administrator to notify the Commissioner of any change in its members, owners, directors or officers within 30 days after the change. **Section 3** further requires the administrator to submit a notarized affidavit for each new member, owner, director or officer within 30 days after the change.

Existing law requires each application for a certificate of registration as an administrator to include the complete name and address of each office of the administrator, including offices located outside of this State. (NRS 683A.08522) **Section 3** requires an administrator to notify the Commissioner of any change in the physical location, the mailing address or the electronic mail address of an office of the administrator within 30 days after the change.

Existing regulations require an administrator to provide to the Commissioner a copy of each written agreement that the administrator enters into with an insurer or other entity within 90 days after he or she enters into the agreement. (NAC 683A.125) **Section 3** removes this requirement.

Section 1. NAC 683A.105 is hereby amended to read as follows:

683A.105 **1.** Each applicant for a certificate of registration as an administrator shall submit:

~~1.~~ **(a)** If the applicant is a newly formed business ~~1.~~ **a):**

(1) A financial statement pursuant to subsection 1 of NRS 683A.08522 that has been reviewed by an independent certified public accountant;

(2) A financial statement pursuant to subsection 2 that has been audited by an independent certified public accountant; or

(3) A pro forma balance sheet and a statement listing estimated income and expenses for the first year, compiled in a form which complies with generally accepted accounting principles.

~~2-~~ (b) If the applicant is not a newly formed business:

(1) A financial statement pursuant to subsection 1 of NRS 683A.08522 that has been reviewed by an independent certified public accountant; or

(2) A financial statement pursuant to subsection 2 that has been audited by an independent certified public accountant.

(c) Evidence of the ability of the applicant to pay its obligations when they are due. The Division, in determining an applicant's ability to pay its obligations when due, will consider the capitalization and current financial condition of the applicant and may request credit reports of the applicant and the owners.

2. An applicant for a certificate of registration as an administrator may satisfy the requirements set forth in subsection 1 of NRS 683A.08522 by submitting a financial statement of the parent company of the applicant if:

(a) The applicant:

(1) Is a wholly owned subsidiary of the parent company; and

(2) Provides a parental guaranty of performance for a period of not less than 1 year which is signed by an officer of the parent company and which guarantees the financial solvency of the applicant; and

(b) The financial statement of the parent company:

(1) Is certified by an officer of the applicant and by an officer of the parent company;

(2) Satisfies the requirements set forth in subsection 1 of NRS 683A.08522; and

(3) Has been audited by an independent certified public accountant.

3. The financial statement of an applicant for a certificate of registration as an administrator submitted pursuant to subsection 2 of this section or subsection 1 of NRS 683A.08522, as applicable, must include:

(a) A balance sheet that reports the assets, liabilities and net worth of the applicant;

(b) An income statement that reports the revenues and expenses of the applicant;

(c) A statement of cash flow; and

(d) Notes to the financial statement.

Sec. 2. NAC 683A.119 is hereby amended to read as follows:

683A.119 The Commissioner will consider the following to determine whether an administrator or an applicant for a certificate of registration as an administrator is financially unsound pursuant to NRS 683A.08524 or 683A.0892:

1. The administrator or applicant:

(a) Submits a financial statement to the Commissioner, pursuant to NRS 683A.08522 or 683A.08528 ~~§~~ *or subsection 2 of NAC 683A.105*, reporting:

(1) The sum of its assets is less than the sum of its liabilities;

- (2) A recurring operating loss;
- (3) Negative cash flow from operations; or
- (4) A significant decrease in assets within a fiscal year or over a period of years;

(b) Has defaulted on a loan or restructuring of debt;

(c) Has lost key personnel; or

(d) Has experienced an uninsured or underinsured catastrophe.

2. The administrator loses more than 50 percent of its contracts to act as an administrator within a fiscal year.

3. Adverse findings reported in examinations concerning the financial condition of the administrator or applicant that the Commissioner determines to be material.

4. Information and reports concerning the administrator or applicant from the Insurance Regulatory Information System of the National Association of Insurance Commissioners.

5. Whether the portfolio of assets of the administrator or applicant, when considered in light of the current economic conditions, is of sufficient value, liquidity or diversity to ensure the ability of the administrator or applicant to meet its outstanding obligations as those obligations mature.

6. An opinion issued by an independent certified public accountant that the administrator or applicant is unable to operate as a going concern.

Sec. 3. NAC 683A.125 is hereby amended to read as follows:

683A.125 An administrator shall ~~f~~

~~1. Notify~~ *notify* the Commissioner of any change in ~~its~~ :

1. *Its* members, owners, directors or officers within ~~90~~ 30 days after the change. *The administrator shall submit a notarized affidavit as described in subsection 6 of NRS 683A.08522 for each new member, owner, director or officer within 30 days after the change.*

2. ~~{Provide to the Commissioner a copy of each written agreement that the administrator enters into with an insurer or other entity within 90 days after he or she enters into the agreement.}~~ *The physical location, mailing address or electronic mail address of an office of the administrator within 30 days after the change.*

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS
INFORMATIONAL STATEMENT AS REQUIRED BY NRS 233B.066**

LCB FILE NO. R087-17

The following statement is submitted by the State of Nevada, Department of Business and Industry, Division of Insurance (“Division”) for adopted amendments to Nevada Administrative Code (“NAC”) Chapter 683A.

1. A clear and concise explanation of the need for the adopted regulation.

The proposed regulation pertains to third-party administrators.

Section 1 of the proposed regulation allows administrators to submit parent company financial statements and a parental guaranty in lieu of the requirement to submit their own financial statements. This standard was added to NRS 683A.08528 during the 2015 Legislative Session. The proposed permanent regulation adds this standard to current regulation to match the statute. This section also adds a reference to NRS 683A.08522, clarifying the contents of a financial statement required of an applicant for a certificate of registration as an administrator.

Section 2 of the proposed regulation makes conforming changes resulting from the changes noted in section 1.

Section 3 of the proposed regulation requires administrators to notify the Commissioner of any change in mailing address, electronic mail address or physical location within 30 days of a change. The proposed regulation also requires that an administrator submit biographical affidavits for any changes in officers, owners, or directors within 30 days of a change. Additionally, this section repeals subsection 2 of NAC 683A.125, which requires an administrator to provide to the Commissioner a copy of each written agreement that the administrator enters into with an insurer or other entity.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

- (a) A description of how public comment was solicited:

Public comment was solicited by e-mailing the proposed regulation, notice of workshop, notices of intent to act upon the regulation, and small business impact statement to persons on the Division’s mailing list requesting notification of proposed regulations. The documents were also made available on the website of the Division, <http://doi.nv.gov/>, mailed to the main library for each county in Nevada, and posted at the following locations:

Nevada Division of Insurance
1818 East College Parkway, Suite 103
Carson City, Nevada 89706

Nevada Division of Insurance
3300 West Sahara Avenue, Suite 275
Las Vegas, Nevada 89102

Legislative Building
401 South Carson Street
Carson City, Nevada 89701

Nevada State Business Center
3300 West Sahara Avenue
Las Vegas, Nevada 89102

Blasdel Building
209 East Musser Street
Carson City, Nevada 89701

Grant Sawyer Building
555 East Washington Avenue
Las Vegas, Nevada 89101

Capitol Building
101 North Carson Street
Carson City, Nevada 89701

Nevada Department of Employment,
Training and Rehabilitation
2800 E. Saint Louis Avenue
Las Vegas, Nevada 89104

Public comment was also solicited at the workshop held on October 25, 2017, and at the hearings held on January 22, 2018 and May 21, 2018. The workshop and hearings took place at the offices of the Division, 1818 East College Parkway, Carson City, Nevada 89706, with simultaneous videoconferencing to the Nevada State Business Center, 3300 West Sahara Avenue, Las Vegas, Nevada 89102.

(b) A summary of the public response:

The Division received oral comment from an individual at the workshop with concerns about changing the administrator's 90-day reporting requirements to 30 days.

The Division received one (1) written comment in response to the regulation proposal, and oral comments at each of the two (2) public hearings, from Jack Kim of United Health Care. Mr. Kim testified at the hearing on January 22, 2018, to voice his objection about the need for administrators to provide the Commissioner with copies of agreements between the administrators and insurers. After discussion, the Division agreed to remove the requirement for administrators to provide these agreements. Section 3 of the proposed regulation repeals subsection 2 of NAC 683A.125 as a result of this discussion. Mr. Kim also testified on May 21, 2018, to express support for the regulation as proposed.

(c) An explanation of how other interested persons may obtain a copy of the summary:

The summary in part #2(b) above reflects the comments and testimony that transpired with regard to regulation R087-17. A copy of said summary may be obtained by contacting Terri Chambers, Section Chief, by telephone at (775) 687-0777, or by e-mail

to tchambers@doi.nv.gov. This summary will also be made available by e-mail request to insinfo@doi.nv.gov.

3. The number of persons who:

- (a) Attended the hearing: *Six (6) on May 21, 2018; Twelve (12) on January 22, 2018.*
- (b) Testified at the hearing: *One (1) at each of two (2) hearings.*
- (c) Submitted to the agency written statements: *One (1).*

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3 (b) and (c), as provided to the agency:

Testified at the hearing(s):

Name	Entity/Organization Represented	Business Address	Telephone No./ Business Telephone No.	E-Mail Address
Jack Kim	United Health Care			

Submitted to the agency written statements:

Name	Entity/Organization Represented	Business Address	Telephone No./ Business Telephone No.	E-Mail Address
Jack Kim	United Health Care			

5. A description of how comments were solicited from affected businesses, a summary of their responses, and an explanation of how other interested persons may obtain a copy of the summary.

- (a) A description of how comments were solicited from affected businesses:

Comments were solicited from affected businesses in the same manner as they were solicited from the public. Please see the description provided above in response to #2(a).

- (b) A summary of the responses solicited from affected businesses:

The summary of the responses solicited from affected businesses is the same as the summary of the public response. Please see the summary provided above in response to #2(b).

- (c) An explanation of how other interested persons may obtain a copy of the summary:

A copy of said summary may be obtained by contacting Terri Chambers, Section Chief, at (775) 687-0777, or tchambers@doi.nv.gov. This summary will also be made available by e-mail request to insinfo@doi.nv.gov.

6. If after consideration of public comment the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation was adopted with changes pursuant to public comments received at the hearings. The Division provided testimony during the hearing on May 21, 2018, regarding the background and nature of the changes made. ✓

7. (a) The estimated economic effect of the adopted regulation on the business which it is to regulate:

- (1) Both adverse and beneficial effects: *None*
- (2) Both immediate and long-term effects: *None*

(b) The estimated economic effect of the adopted regulation on the public:

- (1) Both adverse and beneficial effects: *None*
- (2) Both immediate and long-term effects: *None*

8. The estimated cost to the agency for enforcement of the adopted regulation.

None.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

Not applicable, as there is no overlap or duplication.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of those provisions.

Not applicable, as there are no provisions that are more stringent than a federal regulation which regulates the same activity.

11. If the regulation establishes a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

Not applicable, as this regulation does not establish a new fee or increase an existing fee.