

STATE OF NEVADA



BRIAN  
SANDOVAL  
*Governor*

DEPARTMENT OF BUSINESS AND INDUSTRY  
**FINANCIAL INSTITUTIONS DIVISION**

BRUCE BRESLOW  
*Director*

GEORGE E. BURNS  
*Commissioner*

**DATE:** March 2, 2016

**TO:** Whom It May Concern:

**FROM:** Leonard J. Esterly Jr.  
Deputy Commissioner

**SUBJECT:** Notice of second workshop to solicit comments on the LCB approved text of the proposed regulations contained in LCB FILE NO. R002-16P dated February 5, 2016 (NAC 628B) – The Business of Private Professional Guardians

The LCB approved text of the proposed regulations included in this memorandum is being presented to the PPG Industry for review and adoption. In order to review the LCB proposed draft regulations and solicit comments from interested persons, a workshop will be held at 9:30 a.m. on April 1, 2016, at the Grant Sawyer Office Building in Room 4401, 555 Washington Avenue, Las Vegas, Nevada and by video conference at the Nevada State Legislative Building in Room 2135, 401 S Carson St, Carson City, Nevada.

NOTICE OF WORKSHOP  
TO SOLICIT COMMENTS ON THE LCB DRAFT REGULATIONS

COMMISSIONER OF THE FINANCIAL INSTITUTIONS

CHAPTER 628B OF THE NEVADA ADMINISTRATIVE CODE  
“THE BUSINESS OF PRIVATE PROFESSIONAL GUARDIANS”

(LCB FILE NO. R002-16P dated February 5, 2016)

March 2, 2016

The State of Nevada, Financial Institutions Division (“Division”), 2785 E. Desert Inn Road, Suite 180, Las Vegas, Nevada 89121, (702) 486-4120 is proposing the adoption of regulations to Chapter 628B of the Nevada Administrative Code (NAC). The regulations are required as a result of the passage of Assembly Bill 325 (AB-325) during the 78<sup>th</sup> Session of the Nevada Legislature adjourned sine die on June 1, 2015. This workshop will be conducted subject to the Open Meeting Law (NRS 241.020) and the purpose is to solicit comments from interested persons on the LCB approved text of the proposed regulations to be held at the following locations through simultaneous videoconference:

Date: Friday, April 1, 2016

Time: 9:30 am.

In Las Vegas: Grant Sawyer Building  
555 E. Washington Avenue  
Room 4401  
Las Vegas, NV 89101

In Carson City: Nevada State Legislative Building  
401 S. Carson St.  
Room 2135  
Carson City, NV 89701

**ACCOMMODATIONS FOR PHYSICALLY HANDICAPPED:** Reasonable efforts will be made to assist and accommodate physically handicapped persons desiring to attend the meeting. Members of the public who are disabled and require special accommodations or assistance at the workshop must notify Leonard Esterly, Deputy Commissioner, at the Division in writing at 2785 E. Desert Inn Road, Suite 180, Las Vegas, Nevada 89121, no later than 5 working days prior to the workshop. Any questions should be directed to Leonard Esterly, Deputy Commissioner, at (702) 486-4120.

**AGENDA:** Below is an agenda of all items scheduled to be considered. Unless otherwise stated, items may be taken out of the order presented on the agenda at the discretion of the Financial Institutions Division Commissioner. Items may also be combined for consideration or pulled or removed from the agenda at any time. Persons who may be subject to the provisions of the new law regarding private professional guardians should attend. Public comment may be limited to three (3) minutes per person at the discretion of the Commissioner. The Commissioner may only take REVIEW ACTION on those items denoted as potential REVIEW ACTION items.

1. **PUBLIC COMMENT:** Members of the public are encouraged to address the Commissioner regarding any matter. Persons who desire to submit written testimony should submit ten (10) copies to the Deputy Commissioner. Public comment may be limited to three minutes at the workshop per person at the discretion of the Commissioner.
  
2. **REVIEW LCB APPROVED TEXT OF THE PROPOSED REGULATIONS (LCB FILE NO. R002-16P DATED FEBRUARY 5, 2016):**
  - A. **Section 1.**

Chapter 628B of NAC is hereby amended by adding hereto the provisions set forth as sections 2 to 18, inclusive, of this regulation.
  
  - B. **Section 2.**

As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3, 4, and 5 of this regulation have the meanings ascribed to them in those sections.
  
  - C. **Section 3.**

“Certified Guardian” has the meaning ascribed to it in subsection 4 of NRS 159.0595.
  
  - D. **Section 4.**

“Licensee” means a person licensed to engage in the business of a private professional guardian pursuant to chapter 628B of NRS, created by Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2343.

E. **Section 5.**

“Place of business” means the physical location used by a licensee to engage in the business of a private professional guardian as designated in the license issued to the licensee pursuant to chapter 628B of NRS, created by Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2343.

F. **Section 6.**

Each natural person who applies for the issuance of a license to engage in the business of a private professional guardian pursuant to chapter 628B of NRS, created by Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2343, shall submit proof satisfactory to the Commissioner that he or she is:

1. A citizen of the United States or lawfully entitled to remain and work in the United States; and
2. A resident of this State, unless the applicant, if a nonresident, has obtained the prior approval of the Commissioner to apply for the issuance of a license to engage in the business of a private professional guardian

G. **Section 7.**

A licensee shall not engage in any business of a private professional guardian unless, in addition to satisfying all the requirements set forth in this chapter and chapter 628B of NRS, created by Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2343:

1. The licensee possesses each license, registration and permit required by this State or a local governmental entity as a condition to conducting business; and
2. The place of business of the licensee complies with the provisions of all applicable planning and zoning ordinances.

H. **Section 8.**

1. A licensee or an applicant for the issuance of a license to engage in the business of a private professional guardian shall notify the Commissioner within 10 days of:

(a) Any change concerning the:

(1) Information provided pursuant to subsections 3 to 6, inclusive, of section 18 of Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2346.

(2) Financial status of the licensee or applicant, including, without limitation, any new filing for bankruptcy, change in the solvency of the business of the licensee or applicant, or lien taken on any real property in the name of the licensee or applicant; or

(3) Equity, fidelity and surety bonds required pursuant to section 33 of Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2353; or

(b) Being convicted of, or entering a plea of guilty or nolo contendere to, a felony or any crime involving fraud, misrepresentation, material omission, misappropriation, conversion or moral turpitude.

2. In addition to the requirements set forth in subsection 1, a licensee shall notify the Commissioner within 10 days of any change in employment.

I. **Section 9.**

1. The place of business of a licensee must be nonresidential unless an exemption is granted by the Commissioner.

2. If the Commissioner grants an exemption pursuant to subsection 1, any meeting that may be required during any licensing or examination process must be conducted at the closest office of the Division.

3. A licensee shall not engage in the business of a private professional guardian within any office, suite, room or business location in which any other business of a private professional guardian is solicited or engaged, or in association or conjunction with any other business of a private professional guardian, unless the licensee receives prior written approval from the Commissioner.

J. **Section 10.**

1. A licensee shall not move the place of business of the licensee without first requesting approval from the Commissioner in writing, on a form prescribed by the Commissioner, and obtaining the approval of the Commissioner.

2. If the Commissioner approves a change in the place of business of a licensee, the Commissioner will note the change on the face of the license of the licensee and enter a notation of the change in the record maintained pursuant to section 26 of Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2351.

K. **Section 11.**

In addition to the requirement set forth in section 27 of Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2351, that the license of a licensee must be conspicuously displayed in the place of business designated in the license, a licensee shall display a copy of the license of the licensee on each website that the licensee uses for the purpose of soliciting new business or providing general information about the business services of the licensee.

L. **Section 12.**

1. A licensee shall post in a conspicuous place in each location at which the licensee engages in the business of a private professional guardian and on each website the licensee uses for the purpose of soliciting new business or providing general information about the business services of the licensee a notice that states the toll-free telephone number of the Office of the Commissioner for the

purpose of handling concerns or complaints regarding licensees. The notice must be in substantially the following form:

NOTICE OF RIGHT TO CONTACT THE OFFICE OF THE COMMISSIONER  
OF  
FINANCIAL INSTITUTIONS REGARDING CONCERNS OR COMPLAINTS

You may contact the Office of the Commissioner of Financial Institutions regarding concerns or complaints about the licensee with whom you are dealing by calling the following toll-free telephone number in Nevada: (866) 858-8951.

2. If the notice required by subsection 1 is printed, it must be in boldface type. Information that must be printed in all upper case letters, and the telephone number, must be printed in at least 18-point type. All other information must be printed in at least 16-point type.
3. If the notice required by subsection 1 is handwritten or displayed digitally or by other electronic means, it must be in characters that are equivalent in intensity, legibility and size to the characters required for printed matter.

M. **Section 13.**

A licensee shall maintain all records concerning each of the wards of the licensee and all documentation concerning the license of the licensee for at least 6 years after the completion of the last transaction concerning a guardianship account maintained for a ward or the licensee's service as a private professional guardian, whichever is later.

N. **Section 14.**

1. A licensee that uses a form or standard document written in a language other than English shall have the document translated into English and maintain together a copy of the document and its English translation.
2. A document translated pursuant to this section must be:
  - (a) Translated by an interpreter who is:
    - (1) Certified by the Court Administrator in accordance with the provisions of NRS 1.510 and regulations adopted pursuant thereto; or
    - (2) Approved in writing by the Division.
  - (b) Accompanied by a certificate issued by the interpreter. The certificate must:
    - (1) Declare that the translated document is a true and complete translation of the document written in the language other than English;
    - (2) Identify the document written in a language other than English and its English translation;
    - (3) Include the date of the translation; and

(4) Include the name, address, telephone number and electronic mail address, if any, of the interpreter.

3. The Commissioner may require a licensee to provide a translation of any nonstandard document that is written in a language other than English.

4. The Commissioner may assess a licensee for all costs incurred by the Commissioner to verify the licensee's compliance with this section.

O. **Section 15.**

1. A request for approval and licensing to operate a branch office outside this State that is filed with the Commissioner pursuant to subsection 3 of section 32 of Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2353, must contain:

(a) The applicable information required by section 18 of Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2346, for the application for a license to engage in the business of a private professional guardian in this State; and

(b) Proof satisfactory to the Commissioner that each branch office located outside this State will have a private professional guardian or a certified guardian involved in the day-to-day operation or management of the branch office.

2. The Commissioner will not approve a request for approval and licensing to operate a branch office outside this State that is filed pursuant to subsection 3 of section 32 of Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2353, unless the Commissioner is satisfied that the applicant has:

(a) Complied with all applicable provisions of this chapter and chapter 628B of NRS, created by Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2343, including, without limitation, the requirements set forth in section 32 of Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2353; and

(b) Made appropriate arrangements for the:

(1) Storage, maintenance and retention in this State of all records regarding the collection of claims for or from residents of this State; and

(2) Maintenance of a guardianship account for each ward pursuant to section 37 of Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2356.

**P. Section 16.**

1. Except as otherwise provided in subsection 2, a private professional guardian company shall not have a private professional guardian or a certified guardian involved in the day-to-day operation or management of the company if the private professional guardian or certified guardian is serving in that capacity for another private professional guardian company.

2. A private professional guardian company is exempt from the provisions of subsection 1 if the private professional guardian company submits a written request to the Commissioner and the Commissioner approves the request.

3. The Commissioner may revoke the approval given pursuant to subsection 2 at any time if the Commissioner determines that:

(a) Confusion exists in the general public with regard to dealing with different private professional guardian companies that have the same private professional guardian or certified guardian involved in the day-to-day operation or management of each company;

(b) The various business functions of different private professional guardian companies that have the same private professional guardian or certified guardian involved in the day-to-day operation or management of each company are likely to be or are being merged or commingled or, in the opinion of the Commissioner, are otherwise being conducted in a manner that may be deleterious to the best interests of the public or the industry of private professional guardians;

(c) Improper or abusive methods are being used by a private professional guardian company that has the same private professional guardian or certified guardian involved in the day-to-day operation or management of the company as another private professional guardian company; or

(d) A private professional guardian company that has the same private professional guardian or certified guardian involved in the day-to-day operation or management of the company as another private professional guardian company is not conducting its affairs in compliance with this chapter and chapter 628B of NRS, created by Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2343.

**Q. Section 17.**

If an opportunity for a hearing is provided to a person pursuant to subsection 3 of section 17 of Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2346, and the person fails to appear at the hearing without obtaining a waiver of appearance or requesting or being granted a continuance:

1. Such failure shall be deemed to be:

(a) An admission of all matters and facts contained in the verified complaint received by the Commissioner pursuant to subsection 1 of section 17 of



Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2346; and (b) A waiver of the right to an evidentiary hearing.

2. The Commissioner or his or her designee may:

(a) Proceed to consider the matter without the participation of the person and may dispose of the matter on the basis of the evidence before it; or

(b) Upon good cause shown, recess the hearing to a future date to be set by the Commissioner or his or her designee to enable the person to attend.

R. **Section 18.**

1. The Commissioner will charge and collect the following fees:

Application fee for a license to engage in the business of a private professional guardian.....\$500

Initial fee for a license to engage in the business of a private professional guardian.....\$750

Renewal fee for a license to engage in the business of a private professional guardian.....\$500

Fee for a request for approval and licensing to operate a branch office outside this state.....\$500

Fee for each branch office authorized by the Commissioner.....\$250

Renewal fee for each branch office authorized by the Commissioner.....\$250

Hourly fee for the examination of the books, papers, records and effects of a private professional guardian company required pursuant to chapter 628B of NRS, created by Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2343, and the preparation of a report of the examination.....\$75

Fee for each day a report is late pursuant to subsection 4 of section 40 of Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2358.....\$10

2. The Commissioner will bill each licensee for any fee or assessment imposed pursuant to the provisions of this chapter or chapter 628B of NRS, created by Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2343. The licensee shall pay the fee within 30 days after the date the licensee receives the bill.

3. Any fee authorized by this chapter or chapter 628B of NRS, created by Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2343, must not be assessed directly to the estate of any ward.

3. PUBLIC COMMENTS: Members of the public are encouraged to address the Commissioner regarding any matter. Persons who desire to submit written testimony should submit ten (10) copies to the Deputy Commissioner. Public comment may be limited to three minutes at the workshop per person at the discretion of the Commissioner.

#### 4. ADJOURNMENT

A copy of the regulations to be considered for adoption is attached to this notice and will also be available prior to the hearing on the Internet at: <http://www.fid.state.nv.us>. Copies of this notice and/or the proposed regulations will be e-mailed and/or US Mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

This notice has been e-mailed to all persons on the Division's mailing list for notice of proposed rulemaking, posted on the Division's web site at <http://www.fid.state.nv.us>, posted on the State's Official Website, and posted at the following public locations for inspection by members of the public:

Attn: Public Posting  
Churchill County Library  
553 S. Maine Street  
Fallon, NV 89406

Attn: Public Posting  
Tonopah Public Library  
P.O. Box 449  
Tonopah, NV 89049  
(167 Central Street)

Attn: Public Posting  
Las Vegas – Clark County Library  
833 Las Vegas Blvd. N.  
Las Vegas, NV 89101

Attn: Public Posting  
Pershing County Library  
P.O. Box 781; (1125 Central Avenue)  
Lovelock, NV 89419

Attn: Public Posting  
Elko County Library  
720 Court Street  
Elko, NV 89801

Attn: Public Posting  
Storey County Library  
P.O. Box 14; (95 South R Street)  
Virginia City, NV 89440

Attn: Public Posting  
Goldfield Public Library  
P.O. Box 430; (Fourth & Crook Sts.)  
Goldfield, NV 89013

Attn: Public Posting  
Washoe County Library  
P.O. Box 2151; (301 S. Center)  
Reno, NV 89501

Attn: Public Posting  
Eureka Branch Library  
P.O. Box 293 (80 South Monroe)  
Eureka, NV 89316

Attn: Public Posting  
White Pine County Library  
950 Campton St.  
Ely, NV 89301

Attn: Public Posting  
Humboldt County Library  
85 East 5th St.  
Winnemucca, NV 89445

Attn: Public Posting  
Battle Mountain Branch Library (Lander  
County)  
625 South Broad Street  
P.O. Box 141  
Battle Mountain, NV 89820

Attn: Public Posting  
Lincoln County Library  
63 Main St. / P.O. Box 330  
Pioche, NV 89043

Attn: Public Posting  
Carson City Library  
900 N. Roop Street  
Carson City, NV 89701

Department of Business & Industry  
Las Vegas Director's Office  
555 E. Washington Avenue  
Suite 4900  
Las Vegas, NV 89101

Department of Business & Industry  
Carson City Director's Office  
1830 College Parkway,  
Suite 100  
Carson City, NV 89706

Office of the Commissioner  
2785 E. Desert Inn Rd.  
Suite 180  
Las Vegas, Nevada 89121

Northern Nevada Examination Office  
1755 East Plumb Lane  
Suite 243  
Reno, Nevada 89502