

STATE OF NEVADA



BRIAN SANDOVAL  
*Governor*

DEPARTMENT OF BUSINESS AND INDUSTRY

BRUCE BRESLOW  
*Director*

**FINANCIAL INSTITUTIONS DIVISION**

GEORGE E. BURNS  
*Commissioner*

**NOTICE OF INTENT TO ACT UPON A REGULATION**

**Notice for the Hearing of Adoption of Regulations**

**The Department of Business and Industry, Nevada Financial Institutions Division  
Chapter 628B of the Nevada Administrative Code  
“The Business of Private Professional Guardians”**

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 permanent 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 public hearing will be conducted subject to the Open Meeting Law (NRS 241.020) and the public hearing on the proposed regulations will be held at the following locations through simultaneous videoconference:

Date: Friday, April 8, 2016

Time: 9:30 am.

In Las Vegas: Grant Sawyer Building  
555 E. Washington Avenue  
Room 4412  
Las Vegas, NV 89101

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

The purpose of this Public Hearing is to receive final comments from all interested persons regarding this permanent regulation and the adoption of Chapter 628B of the Nevada Administrative Code, LCB FILE NO. R002-16P, Dated February 5, 2016.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed regulation. The purpose of the proposed regulation is:

*(a) to provide a licensure process for private professional guardians overseen by the Nevada Financial Institutions Division mandated by NRS 628B and;*

*(b) to provide provisions for the further clarification of costs related to licensing fees and assessments, how to report of changes in information and locations, proper retention and examination of records and accounts, expansion of certain definitions/terms, restrictions, and provide for other matters properly relating thereto.*

2. The proposed regulation is a permanent regulation and a copy of the proposed regulation can be obtained by contacting:

*Office of the Commissioner  
Financial Institutions Division  
2785 E. Desert Inn Road, Suite 180  
Las Vegas, NV 89121  
Email: FIDMaster@fid.state.nv.us  
Voice: (702) 486-4120  
Fax: (702) 486-4563*

3. The estimated economic effect of the regulation on small business and on the public is addressed below:

(a) Both Adverse and Beneficial effects.

(I) ADVERSE EFFECTS:

*A plurality of the Private Professional Guardian (PPG) industry have stated that any new or additional fees that did not exist previously will have a large direct impact on PPG small business and there will be some impact to the client (ward) in some financial manner or form.*

*The PPG industry also stated that regardless of any NFID efforts to directly lessen the impact on small business by establishing a equitable fee schedule to moderate the costs to regulate the industry, PPG small businesses consider the new application and licensing fees excessive and PPG service fees will increase to cover the additional cost of doing business.*

*The PPG industry also indicated that wards/cases with smaller asset levels may not be easily accepted as before. The PPG industry stated that if they were to accept a high number of these types of cases it could place additional financial stress along with the financial burden of the new application and licensing fees. NFID is doing*



*everything possible to work with the PPG Industry to minimize the required fee amounts.*

**(II) BENEFICIAL EFFECTS:**

*The passage of this new legislation will require PPG small businesses to pay state mandated yearly application fees, licensing fees, hourly examination fees, along with pre-existing required Center for Guardianship Certification fees per NRS 159.*

*Through administrative language and the workshop process NFID has attempted to lessen the impact on PPG small business by establishing a cost based equitable fee schedule to moderate the costs to regulate the industry. To facilitate the goal of maintaining fees at the lowest level possible, NFID volunteered to take the regulatory responsibility without any additional state funding or staff.*

*Three PPG small businesses indicated that the “cost of surety bonds on all employees” was a major concern. NFID has not proposed any regulatory language to expand or change what is contained in NRS 628B with regards to “surety bonds” other than reporting any changes to the Commissioner within 10 days.*

**(b) Immediate and long term effects.**

**(I) IMMEDIATE:**

*It appears to be a conclusion that the clients (wards) will see an increase in costs which the PPG industry states “is beyond the control of PPG small business entities and directly attributable to the passage of the PPG legislation”.*

*The industry states the new regulations will generate unlimited extra hours of work from PPG small business to support the NFID requirements to enforce the new law.*

**(II) LONG TERM:**

*The PPG industry states that the new “unknown financial burdens” (costs and fees) may also cause loss of some individually owned (sole proprietor) PPG small businesses due to increased regulatory costs, thus giving the public less choices.*

*The time and money to answer frivolous and unsubstantiated complaints may be reduced with the increased role of the NFID to resolve complaints at the lowest level possible rather than be resolved through the court system.*

*The fees collected will be exclusively used by NFID to regulate the industry at the most economical method possible with the Division’s established objective to maintain all fees at the lowest level possible to cover only agency costs to implement, regulate, and enforce the new law. NFID has not requested nor will receive any additional state funding or staff.*

4. The methods used by the Financial Institutions Division in determining the impact on a small business (pursuant to subsection 3 of NRS 233B.0608) is listed below:

*NFID sent a copy of the draft regulations and a small business impact (SBI) questionnaire to all known PPG small businesses and individual PPGs for review prior to the first workshop, solicited written comments, and took all comments submitted into consideration to draft the small business impact statement.*

*NFID composed the PPG small business solicitation list from contact with all ten (10) District Courts, NAIC membership list, and the Division's regulatory action contact list. In turn, NFID solicited comments on the proposed regulations from all of the above lists by e-mailing a notice and questionnaire prior to the first workshop. Additionally a copy of the full text of the proposed regulations was posted to the Division website. The combination of solicited comments, PPG small business testimony to the Nevada Legislature regarding AB-325, documents from the Commission to Study the Administration of Guardianships in Nevada's Courts were all used to formulate the original SBI statement.*

*NFID also reviewed all comments from the attendees of the 1<sup>st</sup> Workshop. NFID took all seven (7) comments into consideration and reviewed/revise the proposed regulations as well as updating the original SBI statement.*

5. The estimated cost to the Financial Institutions Division for enforcement of the proposed regulation is below:

*The estimated cost to the Financial Institutions Division to implement, regulate, and enforce the proposed regulations are covered by the proposed fees to be collected by NFID. It is estimated NFID will not need any additional funding, future budget increase, or additional staff.*

6. A description of any regulations of other state or local government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.

*To our (NFID) knowledge the proposed regulations do not duplicate any existing federal, state, or local standards regulating the same activity, with the possible exception of reporting under NRS 159.*

7. If the regulation is required pursuant to federal law, a citation and description of the federal law.

*This proposed regulation is not required by federal law.*

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

*To our (NFID) knowledge the proposed regulations do not duplicate any existing federal, state, or local standards regulating the same activity, with the possible exception of reporting under NRS 159.*



9. The date, time, and place where, and the manner in which interested persons may present their views regarding the proposed regulation.

*Persons wishing to comment upon the proposed action of the Nevada Financial Institutions Division may appear and make oral comment at the scheduled public hearing, or may address their comments, data, views or arguments, in written form to the Office of the Commissioner, Financial Institutions Division, 2785 E. Desert Inn Road, Suite 180, Las Vegas, NV 89121 or Email: [FIDMaster@fid.state.nv.us](mailto:FIDMaster@fid.state.nv.us), Voice: (702) 486-4120, Fax: (702) 486-4563.*

10. All addresses where the text of the rule may be inspected and copied.

*See attached list at the end of this Notice of Public Hearing.*

11. Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall 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.

12. The proposed regulation provides new fees established by the passage of the legislation. The new fees collected will be used to regulate the industry at the most economical method possible with the Division's established objective to maintain all fees at the lowest level possible to cover only agency costs to implement, operate, enforce, and not to over burden small business with high and unnecessary fees. To further facilitate the goal of maintaining fees at the lowest level possible, NFID has not asked for any additional state funding or staff.

Persons wishing to comment upon the proposed action of the Financial Institutions Division may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Financial Institutions Division. Written submissions must be received by Financial Institutions Division on or before April 1, 2016 (7 Days Prior to Hearing). If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Financial Institutions Division may proceed immediately to act upon any written submission.

A copy of this notice of intent to act upon a regulation and the regulation to be adopted 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 this notice and regulation to be adopted will be available at the Financial Institutions Division, 2785 E. Desert Inn Road, Suite 180, Las Vegas, NV 89121 and at the Northern Nevada Examination Office, 1755 East Plumb Lane, Suite 243, Reno, Nevada 89502. This notice and the text of the proposed regulation has been submitted to 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 of this notice of intent to act upon a regulation will be mailed or e-mailed to all members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

A copy of the regulations for adoption is also attached to this notice. This notice has also 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

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 Intent to Adopt Regulations -- Notice for the Hearing of the Adoption of Regulations contained in LCB FILE NO. R002-16P dated February 5, 2016 (NAC 628B) – The Business of Private Professional Guardians

The regulations included in this memorandum are being proposed for permanent adoption. In order to review the regulations and solicit comments from interested persons, a public hearing will be held at 9:30 a.m. on April 8, 2016, at the Grant Sawyer Office Building in Room 4412, 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 INTENT TO ADOPT REGULATIONS

### NOTICE FOR THE HEARING OF ADOPTION OF 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 intends to adopt 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 and codification of NRS 628B. This meeting will be conducted subject to the Open Meeting Law (NRS 241.020) and the purpose is to solicit comments from interested persons on the regulations to be held at the following locations through simultaneous videoconference:

Date: Friday, April 8, 2016

Time: 9:30 am.

In Las Vegas: Grant Sawyer Building  
555 E. Washington Avenue  
Room 4412  
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 assistance or accommodations at the public hearing 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 public hearing. 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 action on those items denoted as action items.

1. 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 public hearing per person at the discretion of the Commissioner.
2. REVIEW LCB APPROVED TEXT OF THE PROPOSED REGULATIONS:
  - 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 public hearing per person at the discretion of the Commissioner.



#### 4. ADJOURNMENT

A copy of the regulations submitted 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 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



**PROPOSED REGULATION OF THE  
DIVISION OF FINANCIAL INSTITUTIONS**

**LCB File No. R002-16**

February 5, 2016

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

AUTHORITY: §§1-17, section 14 of Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2345; §18, sections 14, 18, 29, 32, 37 and 40 of Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at pages 2345, 2346, 2352, 2353, 2356 and 2358.

A REGULATION relating to private professional guardians; establishing provisions relating to the licensing of persons engaging in the business of a private professional guardian; establishing certain fees; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Assembly Bill No. 325 of the 78th Legislative Session requires the licensing of certain persons engaging in the business of a private professional guardian. (Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2343) Assembly Bill No. 325 also authorizes the Commissioner of Financial Institutions to adopt regulations to carry out the provisions concerning the licensing of such persons. (Section 14 of Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at page 2345)

**Section 6** of this regulation requires each natural person who applies for the issuance of a license to engage in the business of a private professional guardian to submit proof satisfactory to the Commissioner that the applicant 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 a nonresident applicant otherwise obtains the approval of the Commissioner. **Section 7** of this regulation prohibits a licensee from engaging in the business of a private professional guardian unless, in addition to satisfying all other applicable requirements, the licensee possesses all applicable state and local government licenses, registrations and permits and the place of business of the licensee complies with all applicable planning and zoning ordinances. **Section 8** of this regulation requires a licensee or an applicant for the issuance of a license to engage in the business of a private professional guardian to notify the Commissioner within 10 days of a change in certain information.

**Section 9** of this regulation: (1) requires that the place of business of a licensee be nonresidential unless an exemption is granted by the Commissioner; and (2) prohibits a licensee from engaging in the business of a private professional guardian in certain locations unless the licensee receives written approval from the Commissioner. **Section 10** of this regulation

prohibits a licensee from moving the place of business of the licensee without obtaining the approval of the Commissioner.

**Section 11** of this regulation requires a licensee to display a copy of the license on each of the licensee's business websites, and **section 12** of this regulation requires a licensee to post in each location at which the licensee engages in the business of a private professional guardian and on each of the licensee's business websites a notice providing the toll-free telephone number of the Office of the Commissioner for the purpose of handling concerns or complaints regarding licensees. **Section 13** of this regulation requires a licensee to maintain certain records and documentation for a certain period, and **section 14** of this regulation requires a licensee that uses a form or standard document written in a language other than English to have the document translated into English.

**Section 15** of this regulation establishes certain requirements concerning a request for approval and licensing to operate a branch office outside this State.

**Section 16** of this regulation prohibits a private professional guardian company from having a private professional guardian or 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, unless the private professional guardian company obtains approval from the Commissioner. **Section 16** also authorizes the Commissioner to revoke any such approval at any time if the Commissioner makes certain determinations.

**Section 17** of this regulation establishes provisions concerning the situation in which an unlicensed person engaged in the business of a private professional guardian fails to appear at a hearing provided to the person without obtaining a waiver of appearance or requesting or being granted a continuance.

Assembly Bill No. 325 authorizes the imposition of certain fees and requires the Commissioner to adopt regulations establishing the amounts of certain fees. (Sections 18, 29, 32, 37 and 40 of Assembly Bill No. 325, chapter 409, Statutes of Nevada 2015, at pages 2346, 2352, 2353, 2356 and 2358) **Section 18** of this regulation establishes such fees.

**Section 1.** Chapter 628B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 18, inclusive, of this regulation.

**Sec. 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.*



*Sec. 3. “Certified guardian” has the meaning ascribed to it in subsection 4 of NRS 159.0595.*

*Sec. 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.*

*Sec. 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.*

*Sec. 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.*

*Sec. 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.*

**Sec. 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.*

**Sec. 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.*

**Sec. 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.*

**Sec. 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.*

**Sec. 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.*

**Sec. 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.*

**Sec. 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.*

**Sec. 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.*

**Sec. 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.*

**Sec. 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.*

**Sec. 18.** *1. The Commissioner will charge and collect the following fees:*

<i>Application fee for a license to engage in the business of</i>	
<i>    a private professional guardian.....</i>	<i>\$500</i>
<i>Initial fee for a license to engage in the business of</i>	
<i>    a private professional guardian.....</i>	<i>750</i>
<i>Renewal fee for a license to engage in the business of</i>	
<i>    a private professional guardian.....</i>	<i>500</i>
<i>Fee for a request for approval and licensing to operate a branch office</i>	



*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.*

**SMALL BUSINESS IMPACT STATEMENT**  
(Dated: 29 February 2016)

**THE FINANCIAL INSTITUTIONS DIVISION**  
**TITLE 54, CHAPTER 628B**  
**BUSINESS OF PRIVATE PROFESSIONAL GUARDIANS (PPG)**

LCB File No. R002-16P

**1. Small Business Impact (SBI) Statement pursuant to NRS 233B.0609:**

**(a) A description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

**(I) Solicitation of affected small businesses.**

The proposed regulations to implement AB-325 impacts private professional guardians that must be licensed by the Nevada Financial Institutions Division (NFID) pursuant to Title 54, Chapter 628B of the Nevada Revised Statutes (NRS). The intent of Title 54, Chapter 628B (AB-325) is to have a licensure process for private professional guardians with the licensing function overseen by the Nevada Financial Institutions Division. The proposed regulations include provisions for the clarification of costs related to fees and assessments, certain definitions, report of changes in information and locations, retention and examinations of records and accounts, confidentiality of records, restrictions, and provide for other matters properly relating thereto.

NFID sought comments in accordance with NRS 233B.0608 for the purpose of considering whether as a result of the proposed regulations, there may be a direct and significant economic burden upon small business (defined as fewer than 150 employees) or if the regulations will directly restrict the formation, operation or expansion of a small business seeking to those engaged in or who desire to engage in the business of a private professional guardian and to ensure that there is established in this State an adequate, efficient and competitive private professional guardian service available to the courts and the public at large.

NFID composed the solicitation list from contact with all ten (10) District Courts, NAIC membership list, and the Division's regulatory action contact list. In turn, NFID solicited comments on the proposed regulations for Title 54, Chapter 628B (AB-325) from all of the above lists by e-mailing a notice and questionnaire. Additionally a copy of the full text of the proposed regulations was also posted to the Division website. The combination of solicited comments, PPG Small Business testimony to the Nevada Legislature regarding AB-325, documents from the Commission to Study the Administration of Guardianships in Nevada's Courts were all used to formulate this Small Business Impact Statement.

**(II) Summary of responses.**

Response summaries are available upon request.



**(III) Obtain a copy of the summary.**

The original Small Business Impact Statement (SBI) was posted on the NFID website dated December 2, 2015 along with a Notice of 1<sup>st</sup> Workshop for December 18, 2015. This revised Small Business Impact Statement (SBI) was posted on the NFID website dated March 3, 2016 along with a Notice of 2<sup>nd</sup> Workshop for April 1, 2016. Interested persons may also obtain a copy of the Small Business Impact Statement by contacting the:

**Office of the Commissioner  
Financial Institutions Division  
2785 E. Desert Inn Road, Suite 180  
Las Vegas, NV 89121  
Email: FIDMaster@fid.state.nv.us  
Voice: (702) 486-4120  
Fax: (702) 486-4563  
Website: <http://fid.state.nv.us>**

**(b) The manner in which the analysis was conducted.**

NFID sent a copy of the draft regulations and a SBI Questionnaire to all known PPG small businesses and individual PPGs for review and invited written comment regarding the impact to the private professional guardian community and took all comments submitted into consideration.

As a result, NFID has learned from PPG small businesses and legislative testimony that this type of occupation is quite difficult and retaining the current labor pool and recruiting future private professional guardians can be quite difficult. According to testimony to the Nevada Legislature earlier this year it was stated that in 2008, there were approximately fourteen (14) individual PPGs in Nevada and recent gains in the individual PPG community only number six (6) in the last 7 to 8 years for a approximate total of twenty (20) individual PPGs as of May 2015. There are approximately 14 PPG Companies, 12 of which have only one (1) individual PPG. As part of the process to garner the most current information from the PPG Community NFID sent a Small Business Impact Questionnaire to the community and based on the feedback received by NFID there are (As of November 2015) 40 individuals (20 caseworkers/small business staff and 20 PPGs) currently employed by PPG small businesses in Nevada.

Although it is noted that there are very few if any PPG small businesses in the rural counties (not within close proximity to Reno, Carson City, or Las Vegas metros), NFID has done everything possible to address the economic impact to prevent the loss of and reduce undue hardship upon PPG small businesses in these more rural counties to continue their necessary duties for wards they serve.

NFID has reviewed all comments from the attendees of the 1<sup>st</sup> Workshop and took the comments into consideration. NFID received a total of seven (7) comments and a summary of the responses are available upon request.

**(c) The estimated economic effect of the proposed regulation on the small businesses which it is to regulate including, without limitation:**

**(1) Both Adverse and Beneficial effects:**

**(I) ADVERSE EFFECTS:**

A plurality of PPG small businesses have stated that any new or additional fees that did not exist previously will have a large direct impact on PPG small business and there will be some impact to the client (ward) in some financial manner or form. The PPG small business community also stated that regardless of any NFID efforts to directly lessen the impact on small business by establishing a equitable fee schedule to moderate the costs to regulate the industry, PPG small businesses consider the new application and licensing fees excessive and PPG Service Fees will increase to cover the additional cost of doing business. It appears to be a conclusion that the clients (wards) will see an increase in costs which PPG small businesses state "is beyond the control of PPG small business entities and directly attributable to the passage of the PPG legislation". Based on the feedback received the new "unknown financial burdens" (costs and fees) may also cause loss of some individually owned PPG small businesses due to increased regulatory costs, thus giving the public less choices. The NFID average initial non-depository company application and licensing fee is approximately \$1360.00. The revised individual PPG application and licensing fee is \$1250.00 based on consideration of the comments received from the 1<sup>st</sup> Workshop. Originally NFID proposed an individual PPG application and licensing fee totaling \$1600.00.

**(II) BENEFICIAL EFFECTS:**

Upon consideration of all the comments, the NFID has concluded that the proposed regulations will result in some economic impact upon small business and the proposed regulations could affect the formation, operation or expansion of a small business seeking to provide these services. However, this is not a direct result of the proposed regulations, nor to the NFID mandated efforts to regulate this industry, but because of the passage of this new legislation that will require small businesses to pay legislatively mandated yearly application fees, licensing fees, hourly examination fees, along with pre-existing required Center for Guardianship Certification fees per NRS 159. It must also be noted that the legislation only lists the maximum amount that can be charged. Only through well thought out and coordinated administrative language (NAC) with the PPG small businesses can NFID directly lessen the impact by establishing a cost based equitable fee schedule to moderate the costs to regulate the industry per this new law.

The main premise from the Legislative testimony and the data collected from all interested parties is that the NFID realizes the industry is not very large and will give due consideration to the affect(s) on the PPG small businesses.

Three small businesses indicated (original small business impact statement) that the "cost of surety bonds on all employees" was a major concern. According to AB-325, Section 33, subsection 4, "a private professional guardian company shall obtain suitable surety bonds in accordance with NRS 159.065 as applicable. NFID has not proposed any regulatory language to expand what is contained in AB-325 with regards to "surety bonds" other than reporting any changes to the Commissioner within 10 days.

**(2) Both Direct and Indirect effects:**

**(I) DIRECT EFFECTS:**

NFID has made every effort to reach out early and to the entire PPG industry in order to facilitate a joint effort to develop regulations that do not exacerbate any additional financial and



regulatory burden upon the existing PPG small business community while not deterring those who would like to serve in this profession. NFID understands PPG small businesses have many financial burdens such as professional liability insurance, business insurance, medical insurance, and payroll (supporting staff and caseworkers) with a controlled income. The legislation passed only specifies the maximum fee amounts and gives NFID discretion to set the fee amounts. Through internal analysis NFID has determined the minimum fee amounts to cover the basic costs for the Division to implement and carry out the legislation. NFID is also aware that some wards/cases with smaller asset levels may not be accepted due to the required increase in PPG application and renewal fees and as stated above is doing everything possible to minimize the fee amounts.

NFID has determined the most prominent positive direct effects from the passage of AB-325 will be the ability to ensure consistency in the PPG business community as well as reduce any potential financial abuse of wards. This in turn will also establish a general public perception of PPG small businesses as ethical, honest, and credible. With each individual PPG averaging approximately 20 clients, this bill in combination with the proposed regulations provides the necessary oversight to reduce financial fraud/abuse, and enhance checks/balances of how the ward's assets are being handled through regular examination. The examination fee is a cost based amount to cover the time to conduct the examination and prepare the report. Private Professional Guardians will be required to maintain separate accounts for each ward and account for all transactions which could be an additional expense; however this added task/expense protects both the licensee and the ward by providing segregated detailed accounting. Another positive attribute is any concerned party will be able to call NFID and verify the license is current and all the required examining has been accomplished and documented which could reduce attorney fees and expedite problem/complaint resolution.

NFID's primary role deals with monitoring the fiduciary responsibilities of private professional guardians through licensing and examinations (see above paragraph). In the past when a problem was identified and family members realized there was a need to act because something is being done inappropriately, the process to address the problem had to go back to the courts which is time consuming, costly, and very burdensome on the courts and PPGs. NFID's role is designed to alleviate most of that burden (financial and regulatory) through a more streamline avenue for complaints to be registered, reviewed, and resolved and not just another layer of government oversight. It is believed that this streamlined process could reduce attorney fees which are identified from the PPG industry to be the root cause of most expenses to the wards.

## **(II) INDIRECT EFFECTS:**

It is noted that a common concern from the PPG Community regarding the proposed regulations is that the draft regulations will generate unlimited extra hours of work to support the NFID requirements to enforce the new law which may cause more time away from wards and could cause some harm to the wards physical/mental well being.

It was also noted from PPG small businesses the concern that frivolous and unsubstantiated complaints will take away time with clients (wards) and especially in a solely owned PPG Small Business. This possible situation may be reduced with the increased role of the NFID to resolve complaints at the lowest level possible rather than be resolved through the court system. All

complaints made to the NFID must be in writing and verified by signature under the penalty of perjury.

**(d) A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**

NFID received a total of nine (9) responses to the original solicitation sent to all interested parties. NFID also reviewed all comments from the attendees of the 1<sup>st</sup> Workshop and took all seven (7) comments into consideration. NFID has considered and analyzed all submitted comments as detailed above, as well as additional research to concerns addressed from testimony during the 2015 legislative session as detailed above.

**(e) The estimated cost to the agency for enforcement of the proposed regulation.**

The estimated cost to the Financial Institutions Division for enforcement of the proposed regulation should be covered by the proposed fees to be collected by NFID. It is estimated NFID will not need any additional funding or a budget increase.

**(f) If the proposed regulation provides 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.**

The proposed regulation provides new fees established by the passage of the legislation and the total amount NFID expects to collect based on the recent data from Nevada Legislative testimony (indicating there are approximately 20 Individual PPGs in Nevada) is approximately:

- 1) **The 1<sup>st</sup> Year Best Case** → **Approximately \$38,750** based on the application fee of \$500 and initial licensing fee of \$750 (\$1250) for 20 Individual PPGs and 11 PPG Entities/Companies.
- 2) **The 2<sup>nd</sup> Year Best Case** → **Approximately \$25,400** based on yearly renewal Fee of \$500 (20 Individual PPGs and 11 PPG Entities/Companies) and an hourly examination fee of \$75 with the average exam projected to take approximately 12 hours to complete (~\$900). It is also expected that the following yearly exams will not take 12 hours to complete thus lowering this cost in future years.

The fees collected will be used by NFID to regulate the industry at the most economical method possible with the Division's established objective to maintain all fees at the lowest level possible to cover only agency costs to implement/operate/enforce and not to over burden small business with high and unnecessary fees. To further facilitate the goal of maintaining fees at the lowest level possible, NFID volunteered to take the regulatory responsibility without any additional state funding or staff.

**(g) If the proposed regulation includes provisions which duplicate or are more stringent than federal, state, or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.**

To our knowledge the proposed regulations do not duplicate any existing federal, state, or local standards regulating the same activity, with the possible exception of reporting under NRS 159.

**(h) The reasons for the conclusions of the agency regarding the impact of the regulation on small businesses.**



This is a result of the passage of new legislation that will require small businesses to pay state mandated yearly application fees, licensing fees, and hourly examination fees. NFID can only indirectly lessen the impact on small business by establishing an equitable fee schedule to moderate the costs to implement this new law and to be proactive in dealing with problems through efficient processes.

To the best of my knowledge, the information contained in this Small Business Impact Statement was prepared properly and accurate.



Leonard J. Esterly Jr.  
Deputy Commissioner